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A MANUAL  
OF  
NAVAL PRIZE LAW.

---

T. E. HOLLAND.



©

# A MANUAL

OF

# NAVAL PRIZE LAW

FOUNDED UPON  
THE MANUAL PREPARED IN 1806 BY

GODFREY LUSHINGTON

LATE FELLOW OF ALL SOULS COLLEGE, OXFORD AND OF THE INNER TEMPLE  
BARRISTER-AT-LAW  
NOW UNDER-SECRETARY OF STATE FOR THE HOME DEPARTMENT,

BY

THOMAS ERSKINE HOLLAND, D.C.L.

OF LINCOLN'S-INN BARRISTER-AT-LAW  
CHICHELE PROFESSOR OF INTERNATIONAL LAW AND DIPLOMACY  
AND FELLOW OF ALL SOULS COLLEGE, OXFORD  
MEMBRE DE L'INSTITUT DE DROIT INTERNATIONAL

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Issued by authority of the Lords Commissioners of the Admiralty.

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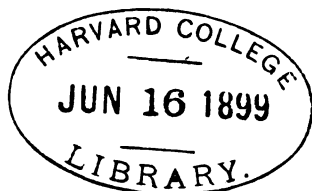
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## PREFACE.

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The objects aimed at in the present work cannot be better stated than in the following extract from the Preface to Mr. Lushington's Manual.

“ THIS BOOK is designed for the use of Officers of Her Majesty's Navy in time of war. The Commander of a belligerent Cruiser often finds himself in a perplexity in dealing with a suspected Vessel. The authorities for his conduct are only too numerous ; Admiralty Orders, Royal Proclamations, Orders in Council, Acts of Parliament, Treaties, and, last and not least, the International Law, written and unwritten, of Maritime Warfare. The Commander is no lawyer himself, has no lawyer by his side, and has scarcely even time to reflect. He is distracted by different considerations. There is his duty to prosecute the war to the uttermost against the Enemy and the aiders and abettors of the Enemy : there is his interest too to secure a valuable prize under his eye and within his grasp. On the other hand there is the risk of a mistake. A false step may cost him something of both fortune and professional position ; nay, may even

“ involve his Country in a dispute with another Power.  
“ In such an emergency an Officer would welcome a Book  
“ which directed him, briefly and clearly, what to do, what  
“ not to do. It is this service which this little Volume  
“ aspires to render. More it does not attempt. Questions  
“ which will ultimately have to be disposed of by the  
“ Prize Court, but which do not concern the Officer's duty  
“ of the place and hour, are not treated of here. For a  
“ like reason, argument and illustration by cases, such as  
“ are convenient for a lawyer's handbook, are here dis-  
“ pensed with as out of place ; and it has been thought  
“ enough to give in the shape of foot-notes the reference  
“ to the authorities on which the statements in the body  
“ of the text are founded.”

The Manual now issued embodies as much as possible of the valuable materials first collected by Mr. Lushington, but the text has been largely rewritten, and the whole has been arranged upon a new method.

It has been assumed that the attention of Commanders of Cruisers will be directed, in the first instance to the Nationality of the Vessel visited. The causes which may lead to her detention have accordingly been classified with reference to this characteristic. It will, however, be observed that in many cases when a Commander is in doubt as to the true Nationality of a Vessel, he will be relieved of the necessity of further enquiry on this point, by discovering she is engaged in a trade which is sufficient of itself to justify her detention.

Thus, should it be uncertain whether a given Vessel belongs to Enemies or to British subjects, she may be

safely detained if engaged in a trade which is unlawful for British subjects. Again, should it be doubtful whether the Vessel be British or Neutral, she must be detained if her trade is one which is prohibited even to the Ships of Neutrals.

It has been thought desirable to give information as to certain belligerent rights against Neutral Vessels which are more or less dormant, and must not now be exercised without special instructions. This information is given in Chapters IX. X. and XI., which, it will be remarked, are enclosed within brackets [ ].

The Treaties which affect the exercise by Great Britain of her belligerent rights at sea, as against particular Nations, are passed over in silence, as being properly the subject of special instructions.

The Manual is a statement of existing law and practice. Any discussion of doubtful questions has been avoided ; nor has any attempt been made to forecast the view which British Prize Courts may take of the effect upon the right of capture of the changes which have been introduced into the conduct of modern warfare.

The Author has much pleasure in expressing his thanks to Mr. Bathurst, the Admiralty Registrar, for kindly reading through the completed proof of the work, and favouring him with several suggestions of practical importance.

T. E. H.

31st December, 1887.



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# NAVAL PRIZE LAW.

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## PART I.

### GENERAL PRINCIPLES.

---

#### CHAPTER I.

##### POWERS.

1. The powers with which the Commander of one of Her Majesty's Cruisers is invested for the purpose of making Lawful Prize in time of war are those of :—

VISIT,

SEARCH,

DETENTION (with a view to Adjudication).

*In what Waters exercisable.*

2. These powers may be exercised in any Waters except the Territorial Waters of a Neutral State. The Territorial Waters of a State are those within three miles from low water mark of any part of the Territory of that State, or forming bays within such Territory, at any rate in the case of bays the entrance to which is not more than six miles wide.

3. These powers may not be exercised over a Vessel in Neutral Territorial Waters, although she may have been beyond those limits when first descried or chased.

4. The Commander may not use Neutral Territorial Waters as an habitual War Station, whence to sally out with his Ship or Boats and exercise the powers of Visit, Search, or Detention upon Vessels lying beyond the limits of such Waters.<sup>1</sup> But he may pass over Neutral Territorial Waters in order to effect a Capture beyond, provided they are not Waters which cannot usually be passed through without express permission.

5. Sometimes it happens that, after capturing a Vessel, the Commander ascertains that the Capture was made in Neutral Territorial Waters. In such case he should release her, if an express application is made by the Authorities of the Neutral Territory for her restoration.

*Over what Ships exercisable.*

6. These powers may be exercised over any Private Vessel, whatever may be her Nationality, but not over any Ship belonging to the Public Navy of a friendly Power.

7. No Vessel is exempt from the exercise of these powers on the ground that she is under the Convoy of a Neutral Public Ship.

*Reasons for exercising.*

8. The power of Visit should be exercised only over Vessels which the Commander of Her Majesty's Cruiser

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<sup>1</sup> Twee Gebroeders, 3 C. Rob. 162.

has some reason to believe are liable to Detention, either as being the property of Enemies, or as being engaged in a prohibited trade or service.

9. The Vessels thus liable to Detention are (subject to the explanations and exceptions contained in chapters III.-XI.) :—

- I. Any Enemy Vessel, irrespectively of her destination or cargo. (*See* chapter III.)
- II. Any British Vessel, or Vessel of an Ally, trading with, or acting in the service of, the Enemy. (*See* chapter IV.)
- III. Any Neutral Vessel engaged in :—
  - (1.) Carriage of Contraband. (*See* chapter VI.)
  - (2.) Acting in the service of the Enemy. (*See* chapter VII.)
  - (3.) Breach of Blockade. (*See* chapter VIII.)

Except in these three cases, to which, under certain circumstances, others (*see* chapters IX.-XI.) may possibly be added by special instructions, Neutral Vessels are free to trade with the enemy.

10. Any Vessel is also liable to Detention, irrespectively of her national character, or the trade in which she is engaged, for :—

- (1.) Resistance to Visit or Search. (*See* chapter XIII.)
- (2.) Sailing under Neutral Convoy which resists. (*Ibid.*)
- (3.) Sailing under Enemy Convoy. (*Ibid.*)
- (4.) Deficiency in Ship Papers. (*See* chapter XIV.)

*Procedure to be observed in exercising.*

11. Visit, Search, and Detention, must be exercised in accordance with the established course of Procedure. (See chapters XV.—XIX.)

*Sending in for Adjudication.*

12. When a Vessel has been detained she should be sent, with the accustomed precautions, to a Port of Adjudication ; and upon her arrival there proceedings should be commenced with a view to her being duly condemned by a Prize Court. (See chapters XX.—XXII.)

---

## CHAPTER II.

### RESPONSIBILITY FOR EXERCISE OF POWERS.

13. In the exercise of the powers of Visit, Search, and Detention, great discretion will be required. The war has to be prosecuted with zeal, but at the same time care must be taken not to subject to any vexatious interference the commerce of Great Britain or her Allies, or of any other nations not engaged in the war.

14. The Commander should be careful on all occasions to observe strict propriety of conduct towards the Masters and Crews of Vessels with whom, in the exercise of these powers, he may be brought into contact ; and should impress the same duty upon the Officers and men under his command.



15. If a Commander in the exercise of these powers detain a Vessel without probable cause, or do an act not sanctioned by International law or otherwise unwarrantable, he will incur the displeasure of Her Majesty's Government, and will also be personally liable for damages.

16. The Commander is likewise responsible in damages for the acts of all under his command, whether he himself is present or absent ; and this responsibility is not shifted upon his Superior Officer (as the Commander of the Squadron or of the Fleet), unless such Superior Officer be actually present and coöperating, or has issued express orders for the doing of the act in question.<sup>1</sup>

17. Even although the Vessel and Cargo be condemned as Lawful Prize, the Captors may be deprived by the Prize Court of all interest in the same, if in relation to the Vessel or her Cargo, or any Person on board, they have committed any offence against the Law of Nations, or against the Naval Prize Act, 1864, or against any Act relating to Naval Discipline, or against any order in Council or Royal Proclamation, or any breach of Her Majesty's Instructions relating to Prize, or any act of Disobedience to the Orders of the Lords of the Admiralty, or to the Command of a Superior Officer.<sup>2</sup>

---

<sup>1</sup> *Mentor*, 1 C. Rob. 179. *Eleanor*, 2 Wheat. 345.

<sup>2</sup> *Naval Prize Act*, 1864, Sec. 37.

## PART II.

### CAUSES OF DETENTION SEPARATELY CONSIDERED.

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### CHAPTER III.

#### ENEMY VESSELS.

18. The Commander should detain any Enemy Vessel which he may meet with, whatever are the ports between which she is trading. Her Officers and Crew are Prisoners of War.

#### *What are Enemy Vessels.*

19. The Commander will be justified in treating as an Enemy Vessel :—

1. Any Vessel under the Flag and Pass of the Enemy Government.<sup>1</sup>
2. Any Vessel sailing under a Licence of the Enemy Government.<sup>2</sup>
3. Any Vessel owned in whole or in part by an Enemy, as hereinafter defined<sup>3</sup> (*see* §§ 20—30).
4. Any Vessel apparently owned by a British, Allied or Neutral subject, as hereinafter defined (*see* §§ 41, 42, 49, 55, 56), if such person has acquired

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<sup>1</sup> *Vigilantia*, 1 C. Rob. 1. *Vrouw Elizabeth*, 5 C. Rob. 2. *Vrouw Anna Catharina*, 5 C. Rob. 161. *Fortuna*, 1 Dod. 81. *Success*, 1 Dod. 131. *Industrie*, Spinks, 54.

<sup>2</sup> *Julia*, 8 Cranch, 181. *Aurora*, 8 Cranch, 202. *Hiram*, 8 Cranch. 444.

<sup>3</sup> *Primus*, Spinks, 48. *Industrie*, Spinks, 56.

the ownership by a Transfer from an Enemy made after the Vessel had started upon the Voyage during which she is met with, and has not yet actually taken possession of her.<sup>1</sup>

5. Any Vessel apparently owned by a British, Allied, or Neutral subject, if such person has acquired the ownership by a Transfer from an Enemy made at any time during the war, or previous to the war but in contemplation of its breaking out, unless there is satisfactory proof that the Transfer was *bonâ fide* and complete.<sup>2</sup> In the event of such a Transfer being alleged, the Commander should call for the Bill of Sale, and also for any Papers or Correspondence relating to the same.<sup>3</sup> If the Bill of Sale is not forthcoming, and its absence is unaccounted for, he should detain the Vessel.<sup>4</sup> If the Bill of Sale is produced, its contents should be carefully examined, especially in the following particulars :<sup>5</sup>

- a. The Name and Residence of the Vendor.
- b. The Name and Residence of the Purchaser.
- c. The Place and Date of the Purchase.
- d. The Consideration-money and the Receipt.
- e. The Terms of the Sale.
- f. The Service of the Vessel and the Name of the Master, both before and after the Transfer.

<sup>1</sup> *Vrouw Margaretha*, 1 C. Rob. 336. *Cf. Jan Frederick*, 5 C. Rob. 133. *Baltica*, 11 Moore P.C. 141.

<sup>2</sup> *Bernon*, 1 C. Rob. 101. *Welvaart*, 1 C. Rob. 122. *Sechs Geschwistern*, 4 C. Rob. 101. *Ariel*, 11 Moore P.C. 119.

<sup>3</sup> *Otto and Olaf*, Spinks, 257. *Benedict*, Spinks, 314.

<sup>4</sup> *Maria*, Spinks, 321.

<sup>5</sup> *Endraught*, 1 C. Rob. 22. *Juffrow Anna*, 1 C. Rob. 124. *Juffrow Elbrecht*, 1 C. Rob. 126. *Hoop*, 1 C. Rob. 129. *Christine*, Spinks, 82.

The Name and Residence of the Vendor are material to show whether or not he was an Enemy.

The Name and Residence of the Purchaser are material to show whether or not he was a person resident in British, Allied, or Neutral Territory.

The Date and Place of the Purchase are material to show whether or not the Transfer was made in contemplation or in consequence of the war.

The Consideration-money is material, in case the Vessel is alleged to have been transferred by Sale, to show whether or not the transaction was *bonâ fide*. For if the transaction was professedly a Sale, then the fact that the consideration was nominal or wholly inadequate would be a just cause for suspicion. But a Transfer by way of gift or bequest will, if *bonâ fide* and complete, be as valid as a Transfer by way of Sale.<sup>1</sup>

The Receipt for the purchase-money should be called for in case the Vessel is alleged to have been transferred by Sale ;<sup>2</sup> but if there is proof that the Sale was *bonâ fide* and in other respects complete, the Transfer will be good, although no Receipt is forthcoming, and even although the Purchase-money has not in fact been paid.<sup>3</sup> For the Prize Court does not consider any lien which an Enemy vendor may have upon a Vessel or Cargo or Freight for unpaid purchase-money to be a subsisting Enemy's interest rendering the Vessel liable to confiscation.

<sup>1</sup> Benedict, Spinks, 314.

<sup>2</sup> Bernon 1 C. Rob. 104. Sechs Geschwistern, 4 C. Rob. 100. Johann Emilie, Spinks, 12. Christine, Spinks, 82. Ernst Merck, Spinks, 198.

<sup>3</sup> Soglasie Spinks, 110. Ariel, 11 Moore P.C. 119.

However, the fact that the Purchase-money, instead of having been paid in Cash, has only been carried to an account, will raise the presumption of the Transfer being merely colorable, and such presumption can be rebutted only by clear proof to the contrary.

The terms of the Sale are material to show whether the transfer was complete. The Transfer would not be complete if the Sale was not absolute ; as, if it contained a Power of Revocation, or a condition for a return of the Vessel at the close of the war, or a reservation of the profits of the Vessel, or of any control over her to be left in the hands of the former Owner.<sup>1</sup>

The Service of the Vessel, and the Name of the Master both before and after the Transfer, are material to show whether or not the Transfer be a genuine one ; for if the Service has continued unaltered by the Transfer, the Commander will be justified in holding the Transfer to be colorable only.<sup>2</sup> The fact that the same Master is retained in command after the Transfer raises a suspicion, but, standing alone, will not be conclusive that the Transfer was not *bonâ fide*.<sup>3</sup>

If the Transfer is *bonâ fide* and complete as between the parties, the fact that it was effected in fraud of the Revenue or the law of the Mercantile Marine of any Foreign Country will be immaterial.<sup>4</sup>

If the Purchase was made through an Agent, the Letters of Procuration should be called for.<sup>5</sup>

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<sup>1</sup> Sechs Geschwistern, 4 C. Rob. 100.

<sup>2</sup> Vigilantia, 1 C. Rob. 1. Endraught, *ib.* 19. Omnibus, 6 C. Rob. 71.

<sup>3</sup> Benedict, Spinks, 316.

<sup>4</sup> Otto and Olaf, Spinks, 257. Benedict, Spinks, 314.

<sup>5</sup> Argo, 1 C. Rob. 158

*Who are Enemies.*

20. Any person is an Enemy, for the purposes of this Chapter, irrespectively of his Nationality, who resides and carries on trade in the Enemy's Territory.<sup>1</sup>

21. A place only in temporary occupation by the Enemy is not necessarily to be considered as Enemy's Territory.<sup>2</sup>

22. Conversely, no person, although of Enemy Nationality, who resides and carries on trade in British, Allied, or Neutral Territory is an Enemy.<sup>3</sup>

23. The place where a person resides and trades is sometimes described as that of his "Commercial Domicil."<sup>4</sup>

24. Trading in a country, without residence there, may confer a "Commercial Domicil" in that country.<sup>5</sup>

25. So also may residence in the Enemy's Territory on the part of a person engaged in trade in a Neutral country.<sup>6</sup>

26. A person may have different Commercial Domicils, according to the course of different transactions.<sup>7</sup>

<sup>1</sup> Indian Chief, 3 C. Rob. 12. Ann, 1 Dods. 221. Joanna Emilie, Spinks 12. Abo. Spinks, 42.

<sup>2</sup> Santa Anna, Edwards, 180. Gerasimo, 11 Moore P.C. 88.

<sup>3</sup> Danous, 4 C. Rob. 255n. Postilion, Hay and Marriott, 245.

<sup>4</sup> Sometimes also as that of his "National Mercantile Character." Baltica, Spinks, 264; where see Dr. Lushington's remarks upon the confusion which results from applying to these cases the rules as to Domicil, properly so called. See also Note III. in the Appendix to Professor Dicey's treatise on Domicil.

<sup>5</sup> Jonge Klassina, 5 C. Rob. 297. S. Jose Indiano, 1 Wheat. 208.

<sup>6</sup> S. Jose Indiano, 1 Wheat. 208.

<sup>7</sup> Two Brothers, 1 C. Rob. 132.

27. The Commercial Domicil of a Consul who trades is in the place of his Trade, not in the country which he represents.<sup>1</sup>

28. The Commercial Domicil of European traders in the East is that of the factory or association under whose protection they carry on their trade.<sup>2</sup>

29. A Commercial Domicil is retained till another is *bonâ fide* acquired, but is more readily changed than a domicil properly so called.<sup>3</sup>

30. A person engaged in Enemy navigation is also an Enemy, for the purposes of this Chapter, not only in respect of the particular Vessel in which he is employed, but also in respect of other Vessels belonging to him that have no distinct national character impressed upon them.<sup>4</sup>

31. The Commercial Domicil of the Owner of a Vessel will be ascertained from her Papers—*e.g.*, her Register (if any), or the Builder's Contract, if the Vessel is a new one ; or the Bill of Sale, if the Vessel has been lately transferred ; or from inquiry from the Master, who is bound to be acquainted with the name and Commercial Domicil of the Owner.

*Exemption in favour of Cartel Ships.*

32. Enemy Vessels actually engaged in Cartel service are exempt from Detention, and this alike when they actually have prisoners on board and when they are empty, whether going to fetch prisoners or returning after having delivered them.<sup>5</sup>

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<sup>1</sup> Indian Chief, 3 C. Rob. 27. Baltica, Spinks, 264.

<sup>2</sup> Indian Chief, 3 C. Rob. 29.

<sup>3</sup> Ernst Merck, Spinks, 102.

<sup>4</sup> Vriendschap, 5 C Rob. 166. Cf. Soglassie, Spinks, 104.

<sup>5</sup> Daifjie, 3 C. Rob. 139. La Gloire, 5 C. Rob. 192.

33. Cartel Vessels ought to be furnished with a Pass from a Commissary of Prisoners in the country of one of the Belligerents ; but the Commander should not detain a Vessel, though not furnished with such a Pass, if there is substantial evidence of any kind that she is *bonâ fide* actually being employed as a Cartel Vessel.<sup>1</sup>

34. The fact that a Vessel sails under a Flag of Truce or under the Flags of both Belligerents at the same time will not alone be sufficient evidence that she is being employed as a Cartel Vessel.<sup>2</sup> A vessel professedly going to seek employment in the Cartel service, but navigated by the Master on his own responsibility, without a Pass from a Commissary of Prisoners, is not entitled to be considered a Cartel Vessel.<sup>3</sup>

35. Cartel Vessels are not at liberty to traffic or to carry any cargo whatever or Despatches ; if they do, they are liable to Detention.<sup>4</sup>

#### *Other Exemptions.*

36. Ships engaged exclusively on a voyage of Scientific Discovery are usually exempt from Detention ; as may be, though only under special instructions, boats engaged in coast fisheries.<sup>5</sup>

#### *Fate of the Vessel and Cargo.*

37. The Vessel will be condemned, as also will Enemy cargo. Neutral cargo will be free (except Contraband). The fate of British or Allied cargo will depend upon special circumstances.

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<sup>1</sup> *La Gloire*, 5 C. Rob. 198.

<sup>2</sup> *La Gloire*, 5 C. Rob. 198.

<sup>3</sup> *Daifjie*, 3 C. Rob. 142.

<sup>4</sup> *La Rosine*, 2 C. Rob. 372. *Venus*, 4 C. Rob. 355.

<sup>5</sup> *Young Jacob and Joanna*, 1 C. Rob. 20.



## CHAPTER IV.

## BRITISH VESSELS AND VESSELS OF AN ALLY.

38. The Commander should detain any British Vessel which he may meet with trading with the Enemy, unless either :

- (1.) He is satisfied that her Master was pursuing such trade in ignorance that war had broken out,<sup>1</sup> or
- (2.) The Vessel is pursuing such trade under a Licence from the British Government.<sup>2</sup>

39. The Commander should also detain any British Vessel which may be acting in the service of the Enemy by carrying Military Persons or Despatches (a topic which will be more conveniently discussed with reference to Neutral Vessels so acting. *See* chapter VII.)

*What are British Vessels.*

40. The Commander will be justified in treating as a British Vessel—

1. Any Vessel sailing under a British Flag and Pass.
2. Any Vessel carrying a Certificate of British Registry.
3. Any Vessel owned by a British Subject, as hereinafter defined (*see* §§ 41, 42).
4. Any Vessel apparently owned by a person having a Neutral Commercial Domicil, if such person has acquired the ownership by a Transfer from a British subject made after the Vessel had started upon the voyage during which she is

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Abby, 5 C. Rob. 251.    <sup>2</sup> Hoop, 1 C. Rob. 196.

met with, and has not yet actually taken possession of her.

5. Any Vessel apparently owned by a person having a Neutral Commercial Domicil, if such person has acquired the ownership by a Transfer from a British subject made at any time during the war, or previous to the war but in contemplation of its breaking out, unless there is satisfactory proof that the Transfer was *bonâ fide* and complete.<sup>1</sup>

*Who are British Subjects.*

41. Any person is a British subject, for the purposes of this Chapter, irrespectively of his Nationality, whose "Commercial Domicil" is British.

42. A "British Commercial Domicil" is ascertainable upon the principles already laid down with reference to an "Enemy Commercial Domicil," *supra*, Chapter III., §§ 20-30.

43. The Commercial Domicil of the Owner of a Vessel will be ascertained from her Papers—*e.g.*, her Register (if any); or the Builder's Contract, if the Vessel is a new Vessel; or the Bill of Sale, if the Vessel has been lately transferred; or from inquiry from the Master, who is bound to be acquainted with the name and domicil of the Owner.

*What is trading with the Enemy.*

44. The Commander will be justified in considering a British Vessel as trading with the Enemy—

1. If she has commenced her voyage from a Hostile port.

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<sup>1</sup> Odin, 1 C. Rob. 250. For the precautions to be observed in ascertaining that an alleged Transfer was *bonâ fide* and complete, *v. supra*, § 19 (5), pp. 7-9.

2. If during her voyage she has touched at a Hostile port as a port of call, whether she has actually taken cargo on board thence or not.<sup>1</sup>
3. If she commenced her voyage, having a Hostile port, either certainly or according to contingencies, for her port of destination or port of call, unless, previous to the time when she is met with, her Master has definitively abandoned the intention to go to a Hostile port.
4. If her real port of destination is Hostile, though her immediate and apparent port of destination is Neutral.<sup>2</sup>
45. A port only in the temporary occupation of the Enemy is not to be considered a Hostile port.<sup>3</sup>
46. Trading, properly so called, is not necessary to constitute the offence, for which mere intercourse is enough. Thus it will in general be no excuse that the Vessel was chartered to bring back to British Territory British property deposited in the Enemy's Territory before the breaking out of the war, if the Charter-party was entered into with knowledge of the war.<sup>4</sup>
47. Trading with the Enemy may be lawful when for the benefit of a British Fleet.<sup>5</sup>

### *Penalty.*

48. The Vessel will be condemned, as will Enemy cargo. Neutral cargo (except Contraband) will be free. The fate of British or Allied cargo will depend on special circumstances.

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<sup>1</sup> Joseph, 8 Cranch, 454.

<sup>2</sup> *Jonge Pieter*, 4 C. Rob. 83, which case however turns upon the ultimate destination of the cargo, and the absolute prohibition of communication with the Enemy, "direct or indirect." The doctrine of "continuous voyages" will be more fully discussed hereafter with reference to Neutral ships.

<sup>3</sup> *Gerasimo*, 11 Moore P.C. 100.

<sup>4</sup> See the American cases: *Rapid*, 8 Cranch, 155. *Alexander*, *ib.* 169, but see the *Ocean*, 5 C. Rob. 91, and Dr. Robinson's note to this case.

<sup>5</sup> *Madonna delle Gracie*, 4 C. Rob. 195.

*Allied Vessels not to trade, &c., with the Enemy.*

49. Vessels owned by subjects of an Ally of Great Britain in the war are not at liberty, any more than British Vessels, to trade with the Enemy or to act in his service ; and, *mutatis mutandis*, the observations in this Chapter relative to British Vessels are applicable to Allied Vessels also.<sup>1</sup>

## CHAPTER V.

## NEUTRAL VESSELS.

50. The Commander should detain any Neutral Vessel which is engaged in the Carriage of Contraband, is acting in the service of the Enemy by carrying Military Persons or Despatches, or is engaged in Breach of Blockade ; unless either :

- (1.) He is satisfied that her Master was acting in ignorance that war had broken out ; or
- (2.) The Vessel is acting under a Licence from the British Government.

*What are Neutral Vessels.*

51. The Flag and Pass of a Neutral Government are not conclusive in favour of the Neutral character of a Vessel, which depends on her being the property of Neutral Subjects, as hereinafter defined (*see* §§ 55, 56).

52. A Vessel apparently owned by a Neutral is not really so owned if acquired by a Transfer from an Enemy, or from a British or Allied Subject, made after the Vessel had started on the voyage during which she is met with, and the Transferee has not actually taken possession of her.

<sup>1</sup> *Ceres*, 3 C. Rob. 79. *Nayade*, 4 C. Rob. 251. *Neptunus*, 6 C. Rob. 403.

53. A Vessel apparently owned by a Neutral is not really so owned if acquired by a Transfer from an Enemy, or from a British or Allied Subject, made at any time during the war, or previous to the war but in contemplation of its breaking out, unless there is satisfactory proof that the Transfer was *bonâ fide* and complete.<sup>1</sup>

54. If a Vessel appear to belong to a Neutral, and there is evidence that she was formerly a British or Allied Vessel, and was captured by the Enemy, and taken into an Enemy's Port for Adjudication, the Commander, will, in default of direct evidence to the contrary, presume that she has been regularly condemned in the Enemy's Court of Prize, and has thereby become the lawful property of the Neutral.<sup>2</sup>

#### *Who are Neutral Subjects.*

55. Any Person is a Neutral, for the purposes of this Chapter, irrespectively of his Nationality, whose "Commercial Domicil" is Neutral.

56. A "Neutral Commercial Domicil" is ascertained upon the principles already laid down with reference to an "Enemy Commercial Domicil." (*Supra*, Chapter III., §§ 20-30).

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<sup>1</sup> *Odin*, 1 C. Rob. 250. For the precautions to be observed in ascertaining that an alleged Transfer was *bonâ fide* and complete, *v. supra*, § 19 (5), pp. 7 9.

<sup>2</sup> *Countess of Landerdale*, 4 C. Rob. 283.

diameter, Rivets, Strips of Iron, Sheet Plate-Iron exceeding  $\frac{1}{4}$  of an inch, and Low Moor and Bowling Plates.

*Goods Conditionally Contraband.*

63. All Goods fit for purposes of war and peace alike, (not hereinbefore specified as Absolutely Contraband), on board a Vessel which has a hostile destination, are Conditionally Contraband, that is, they are Contraband only in case it may be presumed that they are intended to be used for purposes of war. This presumption arises when such hostile destination of the Vessel is either the Enemy's Fleet at Sea or a hostile Port used exclusively or mainly for Naval or Military Equipment.<sup>1</sup>

64. The list of Goods Conditionally Contraband comprises :—

Provisions and Liquors fit for the consumption of Army or Navy.<sup>2</sup>

Money.

Telegraphic Materials, such as Wire, Porous Cups, Platina, Sulphuric Acid, and Zinc.<sup>3</sup>

Materials for the construction of a Railway, as Iron Bars, Sleepers, &c.

Coals.<sup>4</sup>

Hay.

Horses.

Rosin.<sup>5</sup>

Tallow.<sup>6</sup>

Timber.<sup>7</sup>

<sup>1</sup> Jonge Margaretha, 1 C. Rob. 188. Peterhof, 5 Wallace, 58.

<sup>2</sup> Jonge Margaretha, 1 C. Rob. 191. Haabet, 2 C. Rob. 174. Edward, 4 C. Rob. 68. Ranger, 6 C. Rob. 125.

<sup>3</sup> See Parliamentary Papers, North America, No. 14, 1863, p. 5.

<sup>4</sup> See Lord Kingsdown's Speech in the House of Lords, May 26, 1861.

<sup>5</sup> Nostra Signora de Begona, 5 C. Rob. 98.

<sup>6</sup> Neptunus, 3 C. Rob. 108.

<sup>7</sup> Twende Brodre, 4 C. Rob. 33.

65. It is part of the prerogative of the Crown during the war to extend or reduce the lists of Articles to be held Absolutely or Conditionally Contraband, subject, however, to any Treaty Engagements binding upon Great Britain.

66. If the Commander is satisfied that the Goods on board the Vessel are fit for purposes of peace exclusively, he should allow the Vessel to proceed on her course.

*Destination of the Vessel.*

67. If any of the Goods are fit for purposes either of War exclusively or of War as well as of Peace, the Commander of the Cruiser should proceed to ascertain the destination of the Vessel. This should be done by inspection of her Charter-party, her Log-book, and other documents ; and by inquiries from her Master and Crew.

68. A Vessel's destination should be considered Neutral if both the port to which she is bound and every intermediate port at which she is to call in the course of her voyage be Neutral, and if in no part of her Voyage she is to go to the Enemy's Fleet at Sea.

69. A Vessel's destination should be considered Hostile if either the port to which she is bound, or any intermediate port at which she is to call in the course of her voyage, be Hostile, or if in any part of her Voyage she is to go to the Enemy's Fleet at Sea.

70. It frequently happens that a Vessel's destination is expressed in her Papers to be dependent upon contingencies, In such case the destination should be presumed Hostile. if any one of the ports which under any of the contingencies she may be intended to touch at or go to be Hostile ; but this presumption may be rebutted by clear proof that the Master has definitively abandoned a Hostile destination, and is pursuing a Neutral one.<sup>1</sup>

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<sup>1</sup> *Imina*, 3 C. Rob. 167. *Trende Sostre*, cited in the *Lisette*, 6 C. Rob. 390a.

71. The ostensible destination of the Vessel is sometimes a Neutral port, while she is in reality intended, after touching, and even landing and colourably delivering over her cargo there, to proceed with the same cargo to an Enemy port. In such a case the voyage is held to be 'Continuous,' and the destination is held to be Hostile throughout.<sup>1</sup>

72. The destination of the Vessel is conclusive as to the destination of the Goods on board. If, therefore, the destination of the Vessel be Hostile, then the destination of the Goods on board should be considered Hostile also, notwithstanding it may appear from the Papers or otherwise that the Goods themselves are not intended for the Hostile port, but are intended either to be forwarded beyond it to an ulterior Neutral destination, or to be deposited at an intermediate Neutral port.<sup>2</sup>

73. On the other hand, if the destination of the Vessel be Neutral, then the destination of the Goods on board should be considered Neutral, notwithstanding it may appear from the Papers or otherwise that the Goods themselves have an ulterior Hostile destination, to be attained by transshipment, overland conveyance, or otherwise.<sup>3</sup>

*Excuses to be disregarded.*

74. It will be no excuse for carrying Contraband that the Master is or pretends to be ignorant of the nature of the Goods on board his Vessel.<sup>4</sup>

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<sup>1</sup> Richmond, 5 C. Rob. 25.

<sup>2</sup> Richmond, 5 C. Rob. 325. *Trende Sostre*, cited in the *Lisette*, 6 C. Rob. 390 n.

<sup>3</sup> The Courts of the United States, during the late Civil War, took a different view. A Vessel having, for herself, a *bonâ fide* Neutral destination, but having on board a Contraband cargo, intended to be forwarded to an Enemy port in another Vessel, was held liable to capture from the moment of leaving port. *Bermuda*, 3 Wallace, 514. So also even where the further transport from the Neutral port to the Enemy was to take place overland. *Peterhof*, 5 Wallace, 528.

<sup>4</sup> *Oster Risoer*, 4 C. Rob. 199.



75. It will be no excuse that the Master was compelled to carry the Contraband Goods by Duress of the Enemy.

76. It will be no excuse that permission has been given for the Vessel to trade with the Enemy in innocent articles.<sup>1</sup>

77. It will be no excuse that the Vessel is at the same time engaged in carrying Despatches for its own Government.<sup>2</sup>

78. A Treaty provision that Free Ship shall make Free Goods does not sanction the carrying of Contraband.<sup>3</sup>

79. The character of the Port from which Contraband Goods are shipped, whether British, Allied, Neutral, or Hostile, makes no difference.

*Liability of Vessel: when it begins, when it ends.*

80. A vessel which carries Contraband Goods becomes liable to Detention from the moment of quitting port with the Goods on board,<sup>4</sup> and continues to be so liable until she has deposited them. After depositing them, the Vessel, in ordinary cases, ceases to be liable. As a general rule, therefore, a Commander should not detain a Vessel for carrying Contraband Goods unless he finds them actually on board.<sup>5</sup> But Simulated Papers are an aggravation of the offence. If, therefore, a Commander meets with a Vessel on her return Voyage, and ascertains that on her outward Voyage she carried Contraband Goods

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<sup>1</sup> Eleonora Wilhelmina, 6 C. Rob. 331.

<sup>2</sup> See Drummond, 1 Dod, 103.

<sup>3</sup> Asia, cited in Index to 6 C. Rob. 403, s.v. "Free Ships."

<sup>4</sup> Frederick Molke, 1 C. Rob. 86. Imina, 3 C. Rob. 167. Trende Sostre, cited in the Lisette, 6 C. Rob. 390n.

<sup>5</sup> Imina, 3 C. Rob. 167.

with Simulated Papers, he should detain her;<sup>1</sup> and the fact that the return Cargo has not been purchased by the proceeds of the outward Contraband Cargo makes no difference.<sup>2</sup>

*Contraband Goods not to be removed.*

81. The Commander will not be justified in taking out of a vessel any Contraband Goods he may have found on board, and then allowing the Vessel to proceed; his duty is to detain the Vessel, and send her in for Adjudication, together with the Contraband Goods on board.

*Penalty.*

82. The Penalty for carrying Goods absolutely Contraband is, in general, the Confiscation of such Goods, and also of any interest which the Owner of such Goods may have in the rest of the Cargo.<sup>3</sup>

83. The Vessel which carries such Goods, if not owned by the owner of such Goods, is not confiscated, but forfeits her freight for such Goods, and all right to expenses the result of her Detention.<sup>4</sup>

84. The Carriage of Goods conditionally Contraband, and of such absolutely Contraband Goods as are in an unmanufactured state, and are the produce of the country exporting them, is usually followed only by the Pre-emption of such Goods by the British Government, which then pays freight to the Vessel carrying the Goods.<sup>5</sup>

<sup>1</sup> Rosalie and Betty, 2 C. Rob. 343. Nancy, 3 C. Rob. 122. Baltic, 1 Acton, 25. Margaret, 1 Acton, 333. Carrington v. Merchants' Insurance Company, 8 Peters, 521.

<sup>2</sup> Margaret, 1 Acton, 333.

<sup>3</sup> Jonge Tobias, 1 C. Rob. 329. Staat Embden, 1 C. Rob. 27. Floreat Commercium, 3 C. Rob. 178.

<sup>4</sup> Mercurius, 1 C. Rob. 238. Neptunus, 3 C. Rob. 108. Ringende Jacob, 1 C. Rob. 89.

<sup>5</sup> Jonge Margaretha, 1 C. Rob. 193. Maria, 1 C. Rob. 372. Haabet, 2 C. Rob. 174.

85. The Penalty for carrying Contraband Goods with Simulated Papers,<sup>1</sup> or in disregard of express stipulations by Treaty,<sup>2</sup> is confiscation not only of the Contraband Goods, but also of the Vessel, and any interest which her Owner has in the rest of the Cargo.

*Contraband Vessels.*

86. A Neutral Vessel is herself Contraband, and should therefore be detained, if she is fitted as a Vessel of War, and is going for sale to a Hostile destination.<sup>3</sup>

*Penalty.*

87. A Vessel which herself is Contraband is liable to be confiscated, together with such part of her Cargo as belongs to her Owner.<sup>4</sup>

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CHAPTER VII.

NEUTRAL VESSELS : ACTING IN THE SERVICE OF  
THE ENEMY.<sup>5</sup>

*Acting as a Transport.*

88. A Commander should detain any Neutral Vessel which is being actually used as a Transport for the carriage of soldiers or sailors by the Enemy.<sup>6</sup>

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<sup>1</sup> Franklin, 3 C. Rob. 221. Edward, 4 C. Rob. 68. Richmond, 5 C. Rob. 325. Banger, 6 C. Rob. 126.

<sup>2</sup> Neutralitet, 3 C. Rob. 295.

<sup>3</sup> Richmond, 5 C. Rob. 325. Brutus, 5 C. Rob. 331, n. Additional Notes to Appendix No. 1.

<sup>4</sup> Richmond, 5 C. Rob. 325.

<sup>5</sup> Vessels engaged in the carriage for the Enemy of military persons or despatches, have sometimes been described as engaged in the carriage of "Contraband." See the note to Friendship, 6 Rob. 420. It is conceived that this use of the term is misleading.

<sup>6</sup> Carolina, 4 C. Rob. 256. Friendship, 6 C. Rob. 420. Rebecca, 2 Acton, 119. Commercen, 1 Wheaton, 382.

89. The Vessel should be detained, although she may have on board only a small number of Enemy Officers; or even of Civil Officials sent out on the public service of the Enemy, and at the public expense.<sup>1</sup>

90. The carriage of Ambassadors from the Enemy to a Neutral State, or from a Neutral State to the Enemy, is not forbidden to a Neutral Vessel, for the detention of which such carriage is therefore no cause.

*Excuses to be disregarded.*

91. It will be no excuse for carrying Enemy Military Persons that the Master is ignorant of their character.<sup>2</sup>

92. It will be no excuse that he was compelled to carry such Persons by Duress of the Enemy.<sup>3</sup>

*Liability of Vessel: when it begins, when it ends.*

93. A Vessel which carries Enemy Military Persons becomes liable to Detention from the moment of quitting Port with the Persons on board, and continues to be so liable until she has deposited them. After depositing them the Vessel ceases to be liable.

*Persons not to be removed.*

94. The Commander will not be justified in taking out of a Vessel any Enemy Persons he may have found on board, and then allowing the Vessel to proceed; his duty is to detain the Vessel and send her in for Adjudication, together with the Persons on board.

*Penalty.*

95. The Penalty for carrying Enemy Military Persons is the confiscation of the Vessel and of such part of the Cargo as belongs to her Owner.<sup>4</sup>

<sup>1</sup> Orozembo, 6 C. Rob. 430.

<sup>2</sup> Orozembo, 6 C. Rob. 430.

<sup>3</sup> Carolina, 4 C. Rob. 256.

<sup>4</sup> Friendship, 6 C. Rob. 420. *Cf.*  
Atalanta, 6 C. Rob. 440.

*Carrying Enemy's Despateshes.*

96. A Commander should detain any Neutral Vessel which has on board Enemy's Despateshes.<sup>1</sup>

97. By the term "Enemy's Despateshes" are meant any Official Communications, important or unimportant, between Officers, whether Military or Civil, in the service of the Enemy on the public affairs of their Government.<sup>2</sup>

98. But to this rule there is one exception, namely :— Official communications between the Enemy's home Government and the Enemy's Ambassador or Consul resident in a Neutral State.<sup>3</sup> Such communications are permissible on the presumption that they concern the affairs of the Neutral State, and therefore are of a pacific character.

99. Official communications between the Enemy and Neutral Foreign Governments are under no circumstances ground for Detention.<sup>4</sup>

*Excuses to be disregarded.*

100. It will be no excuse for carrying Despateshes that the Master is ignorant of their character.<sup>5</sup>

101. It will be no excuse that he was compelled to carry the Despateshes by Duress of the Enemy.

102. The Mail-bags carried by Mail Steamers will not, in the absence of Special Instructions, be exempt from search for Enemy Despateshes.

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<sup>1</sup> Constantia, 6 C. Rob. 461 n. Susan, 6 C. Rob. 461 n. Hope, 6 C. Rob. 463 n. Rapid, Edwards, 228.

<sup>2</sup> Atalanta, 6 C. Rob. 440. Caroline, 6 C. Rob. 461.

<sup>3</sup> Caroline, 6 C. Rob. 461. Madison, Edwards, 224.

<sup>4</sup> Caroline, 6 C. Rob. 461.

<sup>5</sup> Susan, 6 C. Rob. 461. n.

*Liability of Vessel: when it begins, when it ends.*

103. A Vessel which carries Enemy's Despatches becomes liable to Detention from the moment of quitting port with the Despatches on board, and continues to be so liable until she has deposited them. After depositing them the Vessel ceases to be liable.

*Enemy's Despatches not to be removed.*

104. The Commander will not be justified in taking out of a Vessel any Enemy's Despatches he may have found on board, and then allowing the Vessel to proceed; his duty is to detain the Vessel and send her in for Adjudication, together with the Despatches on board.

*Penalty.*

105. The Penalty for carrying Enemy's Despatches is the Confiscation of the Vessel and such part of the Cargo as belongs to her Owner.<sup>1</sup>

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<sup>1</sup> *Atalanta* 6 C. Rob. 440. But see *Susan and Hope*, notes to *Caroline*, 6 C. Rob. 461. 463.

## CHAPTER VIII.

## NEUTRAL VESSELS: BLOCKADE.

106. The Commander should detain any Vessel, though Neutral, which is engaged in Breach of Blockade.

107. For a Breach of Blockade it is requisite<sup>1</sup> :

- (1.) That a valid Blockade is in existence  
(See §§ 107–113.)
- (2.) That the Vessel visited is affected with  
Notice of the Blockade. (See §§ 114–128.)
- (3.) That the Vessel visited has attempted to  
break the Blockade (See §§ 129–136.)

*Valid Blockade.*

108. A Blockade to be valid must be confined to ports and coasts of the Enemy,<sup>2</sup> but it may be instituted of one port, or of several ports, or of the whole seaboard of the Enemy.

109. It may be instituted to prevent ingress only (“Blockade inwards,”), or egress only (“Blockade outwards”), though it is generally instituted to prevent both ingress and egress.<sup>3</sup>

110. A Blockade to be valid must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the Enemy,<sup>4</sup> or, at any rate, to create evident danger to ships attempting ingress or egress.<sup>5</sup>

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<sup>1</sup> Betsey, 1 Rob. 92a.

<sup>2</sup> Francisca, Spinks, 111.

<sup>3</sup> Gerasimo, 11 Moore, P.C. 115.

<sup>4</sup> Declaration of Paris, of 1856, printed *in extenso* in the Appendix, No. V.

<sup>5</sup> See Lord Russell's despatch to Lord Lyons, 15th February, 1862.

111. It is therefore the first duty of a Commander authorized to institute a Blockade, so to dispose his Squadron as to bring about this result. There is then in existence a Blockade *de facto*.<sup>1</sup>

112. A Blockade, though thus validly instituted, ceases to exist if it be not effectually maintained. It will accordingly cease to exist if the blockading force—

1. Abandon its position, unless the abandonment be merely temporary, or caused by stress of weather ;<sup>2</sup> or
2. Be driven away by the Enemy ;<sup>3</sup> or
3. Be negligent in its duties ;<sup>4</sup> or
4. Be partial in the execution of its duties towards one ship rather than another, or towards the ships of one nation rather than those of another.<sup>5</sup>

113. Should, however, the Commander seize several Vessels at once, and find himself unable to detain them all, it will not be an improper act of partiality, nor is it a relaxation of the Blockade, if he releases some and detains the rest.<sup>6</sup>

#### *Notice of Blockade.*

114. Notice of Blockade is either Actual or Constructive.

#### *Actual Notice.*

115. The Master will be held to have had Actual Notice if he is shewn to have had knowledge of the Blockade, in

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<sup>1</sup> *Franciska*, 10. Moo. P.C. 37.

<sup>2</sup> *Columbia*, 1 C. Rob. 154. *Nancy*, 1 Acton, 57.

<sup>3</sup> *Triheten*, 6 C. Rob. 65. *Hoffnung*, 6 C. Rob 112.

<sup>4</sup> *Juffrow Maria Schroeder*, 3 C. Rob 147.

<sup>5</sup> *Rolla*, 6 C. Rob. 364. *Fox*, *Edwards*, 311. *Success*, 1 Dod. 131. *Francisca*, *Spinks*, 287.

<sup>6</sup> *Rolla*, 6 C. Rob. 364.



whatever way he may have acquired such knowledge, whether by direct warning from a belligerent cruiser,<sup>1</sup> or from any other source of information, public or private.

116. Whether the master has had Actual Notice must be ascertained by personal inquiry from the Master and Crew and by examination of the Vessel's papers. The Commander should especially examine the Charter-party and Bills of Lading, to see whether they contain any recitals as to the Blockade; also the Log and the Certificate of Registry, or other Document denoting the Vessel's Nationality, to see whether any warning of the Blockade has been inscribed thereon.

*Constructive Notice,*

*by Notoriety.*

117. The existence of a Blockade is presumed to be notorious to Vessels within the line of Blockade. No other proof of Notice is therefore necessary in a case of Breach of Blockade outwards.<sup>2</sup> A Blockade may also, under certain circumstances, be notorious to Vessels not within the line of Blockade. Whether or no this is the case, is a question which each Commander must decide for himself upon consideration of all the circumstances,<sup>3</sup> such as :

1. With reference to the Blockade itself; the length of time it has been instituted; the number of Vessels warned and captured.

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<sup>1</sup>Such warning is held by Great Britain, the United States, Russia, and Denmark, to be only one out of many ways in which a Vessel is affected with Notice; *Neptunus*, 2 C. Rob. 110. *Franciska*, 10 Moore P.C. 37; while France, Spain, and Sweden insist upon the necessity for individual warning in every case.

<sup>2</sup>*Vrow Judith*, 1 C. Rob. 150.

<sup>3</sup>*Hoffnung*, 6 C. Rob. 112. *Tutela*, 6 C. Rob. 177. *Franciska*, *Spinks*, 111.

2. With reference to the place blockaded ; its locality, its importance, its facility of communication with places commercially connected with it.
3. With reference to the Vessel stopped ; the port from which she sailed, the time when she sailed ; the course of her voyage ; the probability of her having received information either from cruisers or merchant vessels, or at intermediate ports.

*Constructive Notice,*

*by Diplomatic Notification.*

118. The Master of a Vessel will be presumed to have received Notice of a Blockade if a Notification of its existence has been made to the proper Authorities of the State to which the Vessel belongs,<sup>1</sup> and sufficient time has elapsed for such Authorities to communicate the Notification to the subjects of their State,<sup>2</sup> whether or no they have in fact communicated it.<sup>3</sup>

119. The Commander of the Squadron, after instituting a Blockade *de facto*, should therefore take proper steps in order that a valid Notification of the Blockade may be duly made to foreign States.

120. Notification of a Blockade to a foreign State is an official announcement of the institution of the Blockade made to that foreign State, either by the British Home Authorities or by the Resident British Minister.

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<sup>1</sup> *Neptunus*, 2 C. Rob. 111.

<sup>2</sup> *Jonge Petronella*, 2 C. Rob. 131. *Calypso*, 2 C. Rob. 298. *Adelaide*, 3 C. Rob. 281.

<sup>3</sup> *Neptunus*, 2 C. Rob. 110. *Spes and Irene*, 5 C. Rob. 76.

121. Any Notification which declares under Blockade a larger extent of coast than is actually blockaded,<sup>1</sup> or that a Blockade is *about* to be instituted, is null and void.

122. In order that the Notification of the Blockade may be duly made, the Commander of the Squadron should draw up a Declaration, specifying—

1. What are the Ports or what is the line of seaboard under Blockade.
2. Upon what day the Blockade was instituted.

The declaration may be in Form No. 1, p. 95.

123. The Commander of the Squadron should forthwith transmit to the Secretary of the Admiralty a Copy of this Declaration.

124. He should also send Copies to British Ministers resident in foreign States neighbouring to the scene of the Blockade, together with a letter desiring Notification to be made. The letter may be in Form No. 2, p. 96

125. In addition, the Commander of the Squadron should communicate his Declaration to the Consuls of all the States, Neutral as well as Belligerent, residing at any Neutral Port near to the Blockade, and also (if it can be conveniently done), under a flag of truce, to the Authorities of the Blockaded Ports ; and generally he should use all means in his power to make the fact of the Blockade everywhere known.

126. A Blockade legally commences as soon as it is effectual, whether Notification has been made or not.

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<sup>1</sup> Henrick and Maria, 1 C. Rob. 146. Franciaka, Spinks, 299.

*When Master is without Notice.*

127. If the Commander finds that the Master has not had Notice, either Actual or Constructive, of the Blockade, he should record a Warning upon the Log of the Vessel, and also upon the document which fixes her Nationality, and order her Master to turn back. The Warning may be in Form No. 3, p. 97.

128. If the Master, after receiving the Warning, does not turn back, but perseveres in his course, or persists in loitering about, the Commander should detain the Vessel.<sup>1</sup>

*Breach of Blockade.*

129. A Breach of Blockade may be of "Blockade Outwards," by which egress is prevented, or of "Blockade Inwards," by which ingress is prevented.

*Breach of Blockade Outwards.*

130. A Breach of the Blockade Outwards is committed by any Vessel which, whether with cargo or in ballast, passes, or attempts to pass, out of the Blockaded Port, except

1. A Vessel, in ballast, which was in the Blockaded Port at the time when the Blockade was first instituted.<sup>2</sup>
2. A Vessel, in ballast, which entered during the Blockade, provided her Master was ignorant of the Blockade or had received express permission to enter from the Blockading Squadron.

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<sup>1</sup> *Apollo*, 5 C. Rob. 286. *Fitzsimmons v. Newport Insurance Co.*, 4 Cranch, 185.

<sup>2</sup> *Frederick Molke*, 1 C. Rob. 86

3. A Vessel, with cargo, provided that *the whole* was put on board before the institution of the Blockade;<sup>1</sup> and if the whole has been put on board before the institution of the Blockade, no Breach is committed if any part of such cargo, for the purposes of navigation, be afterwards transferred from the Vessel into lighters, and so sent out of the Blockaded Port for re-shipment in the same Vessel.<sup>2</sup>

In any of the above excepted cases the Commander should permit the Vessel to pass, after inscribing on her Log, and also upon the Document certifying her Nationality, a Memorandum of the Visit and of the ground on which she was considered not liable to Detention.

131. A Vessel which has not herself passed out from within the line of Blockade, nevertheless commits a Breach of the Blockade Outwards, if, whilst lying outside the line of Blockade, she takes on board her cargo from lighters or other Vessels which have been sent out from within the line of Blockade.<sup>3</sup> But she does not commit a Breach of the Blockade Outwards if her cargo is brought to her from the Blockaded Port, either overland, or by canal navigation in lighters which have not passed the line of Blockade.<sup>4</sup>

132. If, in breach of a Blockade Outwards, Goods are carried from a blockaded to an open port, and there landed, and then, by way of *bonâ fide* exportation, laden on board another Vessel, such other Vessel, by taking such goods

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<sup>1</sup> *Vrouw Judith*, 1 C. Rob. 150.

<sup>2</sup> *Otto and Olaf*, Spinks, 257.

<sup>3</sup> *Maria*, 6 C. Rob. 201. *Charlotte Sophia*, 6 C. Rob. 204*n*. *Lisette*, 6 C. Rob. 387.

<sup>4</sup> *Ocean*, 3 C. Rob. 297. *Stert*, 4 C. Rob. 65.

on board, does not commit a breach of the Blockade Outwards ; and, being free herself, the Goods on board her are also free.

*Breach of Blockade Inwards.*

133. A Breach of the Blockade Inwards is committed by any Vessel, whether in ballast or with cargo, which, with Notice of the Blockade, either Actual or Constructive—

1. Passes or attempts to pass the Blockading Squadron into the Blockaded Port.
2. Without attempting to pass, approaches the Blockading Squadron, and either anchors<sup>1</sup> or hangs about<sup>2</sup> in such a position that it would be easy for her, without being detected, or before she could be stopped by the Blockading Squadron, to slip into the Blockaded Port or to get under cover of the forts of the hostile territory.
3. Without herself attempting to pass, discharges her cargo into lighters, to be carried by them across the Blockaded line into the Blockaded Port ; but it is no breach for a Vessel to deliver Goods at an adjoining port not itself blockaded, even though the Goods are destined for the Blockaded Port, provided that they are to be transported thither overland or by canal navigation, without crossing the Blockaded line.<sup>3</sup>
4. Is found near to the Blockaded Port, and is observed to be steering for it, whatever may

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<sup>1</sup> *Neutralitet*, 6 C. Rob. 30.

<sup>2</sup> *Charlotte Christine*, 6 C. Rob. 101.

<sup>3</sup> *Jonge Pieter*, 4 C. Rob. 79.

appear by her Papers to be her Port of Destination.<sup>1</sup> But it is to be remembered that the Captor will not, in the first instance, be allowed, for the purpose of procuring the condemnation of the Vessel, to give evidence either as to the place where the Vessel was met with, or the course she was steering ; but all evidence must, in the first instance, come from the Vessel's Papers or from her Master and Crew.

5. In the case of a Blockade by Notification,—has sailed, after the Notification has taken place, with the Blockaded Port for her destination, however distant from it she may be at the time when she is visited ;<sup>2</sup> except :

- (a.) When sufficient time has not elapsed for the Notification to have been communicated by the Neutral Government to its subjects.<sup>3</sup>
- (b.) When the Port from which the Vessel sails is so distant from the scene of the war as to justify her Master in starting with a destination known to be blockaded, on the chance of finding that the blockade has been removed, and, should that not prove to be the case, with an intention of changing her destination.<sup>4</sup>

(In these two cases the Commander should turn the Vessel back, after inscribing on her papers a Notice of the Blockade).

<sup>1</sup> Gute Erwartung, 6 C. Rob. 182. Mentor, Edwards, 207. Chrissys, Spinks, 348.

<sup>2</sup> Vrouw Joanna, 2 C. Rob. 109. Neptunus, 2 C. Rob. 111. Circassian, 2 Wallace, 135.

<sup>3</sup> Jonge Petronella, 2 C. Rob. 131. Adelaide, 3 C. Rob. 281.

<sup>4</sup> Betsy, 1 C. Rob. 332. This indulgence was granted early in this century to vessels sailing from America, on the ground that otherwise "the effect of a blockade would last two months' longer upon them than upon the trading nations of Europe." It may be doubted whether such an indulgence can be reasonably expected since the introduction of steamships and telegraphic cables.

- (c.) When the Master, though he originally sailed with a blockaded destination, has definitively abandoned it ; which will not be the case if he has merely altered his course under stress of weather, or to avoid belligerent cruisers.<sup>1</sup>

134. The ostensible destination of a Vessel is sometimes a Neutral, or unblockaded Enemy, port, while she is in reality intended, after touching there, to go on to a blockaded port. In such a case her destination is held to be for the blockaded port from the time of sailing.<sup>2</sup>

*Excuses for Breach of Blockade.*

135. The only excuses which justify a Breach of the Blockade are :

1. Absolute necessity, as where stress of weather and want of provisions compel the Vessel to put into port, and the only accessible ports are those under Blockade.<sup>3</sup>
2. The misinformation of the Master, provided that the person misleading him was an Officer of one of Her Majesty's Cruisers, and that the points on which the Master has been so misled have been matters of fact ;<sup>4</sup> as *e.g.*, where the Master has been misinformed by such an Officer that the

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<sup>1</sup> *Imina*, 3 C. Rob. 167. *Minerva*, 3 C. Rob. 229. *James Cook*, Edwards, 263.

<sup>2</sup> It is reasonable in such a case to hold that the voyage is "continuous," but in the late Civil War in the United States, their Courts gave a new and far-reaching application to this doctrine, holding that a vessel was liable to capture for breach of blockade during the whole of her voyage, although having a *bond fide* Neutral destination, if it could be inferred that the cargo was intended, after being landed at the Neutral port, to be forwarded whether by the same, or by another vessel, to a blockaded port. In such cases the cargo was condemned, and the ship also "unless the owners were ignorant of the ulterior destination of the cargo." See *Bermuda*, 3 Wallace, 514. *Springbok*, 5 Wallace, 1.

<sup>3</sup> *Hurtige Hane*, 2 C. Rob. 124. *Fortuna*, 5 C. Rob. 27. *Charlotta*, Edwards, 252

<sup>4</sup> *Neptunus*, 2 C. Rob. 111.



Blockade has been raised, whereas it is still being maintained, or that the limits of the Territory under blockade are narrower than they really are. But where the misinformation of the Master by the Officer concerns only the legal consequences of a Blockade<sup>1</sup>—for instance, when the Officer has told him that he is entitled to a Warning before his Vessel can be seized, or that he may go in if he takes no cargo—the Master will not be excused. And the plea of misinformation by any private person, on any point whatever, will be insufficient.

136. Other excuses are often made, but they may all be disregarded ; such are :—

1. That the Master was approaching the blockaded place only to ascertain whether the Blockade was not raised, and with the intention of retiring in case he found it was continuing.<sup>2</sup>
2. That the Master's object in approaching the blockaded port was not a commercial one, to bring in or take out a cargo<sup>3</sup> ; but was to get a pilot,<sup>4</sup> or provisions,<sup>5</sup> or to fetch away goods deposited there before the breaking out of the war.<sup>6</sup>
3. Intoxication of the Master.
4. Ignorance of the Coast.<sup>7</sup>
5. Loss of Compass.<sup>8</sup>

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<sup>1</sup> Comet, Edwards, 32. Courier, Edwards, 249.

<sup>2</sup> Betsy, 1 C. Rob. 332. Posten, 1 C. Rob. 335 n. Spes and Irene, 5 C. Rob. 76. Shepherdess, 5 C. Rob. 262. Apollo, 5 C. Rob. 286. James Cook, Edwards, 261.

<sup>3</sup> Exchange, Edwards, 39. Charlotta, Edwards, 252.

<sup>4</sup> Elizabeth, Edwards, 198. Arthur, Edwards, 202.

<sup>5</sup> Fortuna, 5 C. Rob. 27.

<sup>6</sup> Comet, Edwards, 32. Jeanne Marie, Spinks, 167.

<sup>7</sup> Adonis, 5 C. Rob. 256.

<sup>8</sup> Elizabeth, Edwards, 198.

6. Desire to avoid the higher fees payable at another port.<sup>1</sup>

*Duration of Liability of Vessels.*

137. So long as the Blockade continues, the Vessel which has committed a Breach remains liable until she has completed her voyage from the Blockaded Port to her Port of Destination.<sup>2</sup> What is her Port of Destination is a matter which has to be determined by the Commander of the Cruiser upon a consideration of all the circumstances. Usually the Port of Destination is that named in the Charter-party as the port for which the Vessel is bound, even though she may touch at any intermediate port for the purpose of loading or unloading, or under stress of weather.

*Penalty for Breach of Blockade.*

138. The Penalty for Breach of the Blockade is the confiscation of the Vessel and in most cases of the Cargo also.<sup>3</sup>

*Cessation of Blockade.*

139. As soon as a Blockade ceases, from any cause, the Commander of the Squadron should take all necessary steps to make known the fact.

140. The moment the Blockade is raised, a Vessel ceases to be liable to capture for any previously-committed Breach of Blockade ; though, if already captured, she is not to be released.

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<sup>1</sup> Hurtige Hane, 2 C. Rob. 124.

<sup>2</sup> Weelvaart van Pillau, 2 C. Rob. 128. General Hamilton, 6 C. Rob. 61. Randers Bye, cited in Christiansberg, 6 C. Rob. 382 n.

Adonis, 5 C. Rob. 259. Panaghia Rhomba, 12 Moo. P.C. 168.

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## CHAPTER IX.

**NEUTRAL VESSELS: ENEMY'S CLOSE TRADE.**

141. Under what is known as the "Rule of the War of 1756," it was held, down to the early years of the present century, that Neutral Vessels were liable to Detention for engaging in a trade which in time of peace was closed to Vessels other than those of the Enemy State. The colonial and coasting trades, at one time customarily closed to foreign Vessels, are, however, now so generally open to the ships of all Nations, that the Rule in question has perhaps lost its practical importance. Its operation would also be interfered with by the second clause in the Declaration of Paris of 1856,<sup>1</sup> to the effect that "the Neutral flag covers Enemy's goods, with the exception of Contraband of War." In any case, the Rule is not to be enforced by Commanders of British cruisers without special instructions.

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## CHAPTER X.

**NEUTRAL VESSELS: CARRIAGE OF ENEMY'S GOODS.**

142. Previously to the war with Russia in 1854, it was the British practice to detain any Neutral Vessel the cargo of which was Enemy property ; but the right of so doing was waived during the war in question ;<sup>2</sup> and by the

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<sup>1</sup> *V. infra*, Appendix, No. V.

<sup>2</sup> *V. infra*, Appendix, Nos. I., II.

second clause of the Declaration of Paris of 1856,<sup>1</sup> "the Neutral flag covers Enemy's goods, with the exception of Contraband of War." It must, however, be remembered that "this Declaration is not binding, except between those Powers who have acceded, or shall accede, to it;" and that although most civilised States have acceded to the Declaration, the United States, Spain, Mexico, Venezuela, and Bolivia have not yet done so. In case therefore of a war, in which any of these last mentioned States should be Neutral, their Vessels could not, as of right, claim the benefit of the Declaration; nor in case of a war in which any of these States should be belligerent, could the Declaration be invoked in favour of the immunity<sup>?</sup> of cargos belonging to their subjects on board Neutral Vessels.<sup>2</sup> A Commander must, however, in no case detain a Neutral Vessel for carriage of Enemy's goods, not being contraband, without special instructions. ]

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<sup>1</sup> *V. infra*, Appendix, No. V.

<sup>2</sup> See Dana's Note, No. 223, to Wheaton's Elements. But in 1860 the British and French Governments, in anticipation of a war with China (which has not signed the Declaration), announced that Chinese goods would be free under a Neutral flag. The British Order in Council recites that "Her Majesty is willing "to extend the benefits of the said Declaration of Paris to all Powers which may "be Neutral in the said hostilities." Hertslet, Commercial Treaties, xi. p. 110.

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## CHAPTER XI.

**NEUTRAL VESSELS: BRITISH OR ALLIED GOODS.**

143. Neutral Vessels carrying goods the property of British or Allied subjects engaged in trade with the Enemy are liable to detention,<sup>1</sup> unless such trade has been expressly permitted. Such trade was, however, expressly permitted during the Crimean War,<sup>2</sup> and a Commander must in no case detain a Neutral Vessel for carriage of British or Allied goods, not being contraband, without special instructions. ]

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## CHAPTER XII.

**CAUSES FOR DETENTION APPLICABLE TO ANY VESSEL.**

144. Certain circumstances occurring, or becoming known, in the course of Visit and Search, render any vessel liable to Detention, irrespectively of her Nationality, or of the trade in which she may be engaged. These are Resistance, whether by the Vessel or its Neutral Convoy ; Sailing under Enemy Convoy ; and Deficiency of Papers.

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<sup>1</sup> Charlotta, 1 Dods, 389.

<sup>2</sup> *V. infra*, Appendix, No. II.

## CHAPTER XIII.

CAUSES APPLICABLE TO ANY VESSEL : RESISTANCE  
AND CONVOY.*Resistance.*

145. The Commander should detain any Vessel which forcibly resists Visit or Search.<sup>1</sup>

146. A mere attempt at escape is, in itself, no ground for Detention, though the Commander will not be liable for injury which he may cause to the Vessel, or her Crew, in forcibly preventing her escape.<sup>2</sup>

147. The Penalty for Resistance by the Master of a Neutral Vessel, is the confiscation of the Vessel and the Neutral cargo.<sup>3</sup> Resistance by the Master of an Enemy's private ship does not forfeit a Neutral cargo,<sup>4</sup> which will, however, be condemned if found on board an armed Ship of the Enemy.<sup>5</sup>

*Resistance by Neutral Convoy.*

148. Any resistance made by a Neutral Convoying Ship to the lawful Visit and Search of a Vessel under her escort, will justify the Detention both of the Convoying Ship and of all Vessels convoyed by her.<sup>6</sup>

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<sup>1</sup> *Maria*, 1 C. Rob. 340.

<sup>2</sup> *See* *S. Juan Battista*, 5 C. Rob. 35. *Mentor*, Edwards, 207.

<sup>3</sup> *Maria*, 1 C. Rob. 340. *Franklin*, 2 Acton, 106.

<sup>4</sup> *Catherina Elizabeth*, 5 C. Rob. 232.

<sup>5</sup> *Fanny*, 1 Dods. 448. In the United States it is held that even in this case the cargo will be free. *Néréide*, 9 Cranch, 441, diss. Story J.

<sup>6</sup> *Maria*, 1 C. Rob. 340. *Elsebe*, 5 C. Rob. 176.

149. If, upon the Visit and Search of a Vessel under Neutral Convoy, it shall appear that the Master set sail with instructions to make an armed resistance to Search, the Vessel should be detained.<sup>1</sup>

*Enemy Convoy.*

150. Vessels under Enemy Convoy are, from that circumstance alone, liable to Detention.<sup>2</sup>

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CHAPTER XIV

CAUSES APPLICABLE TO ANY VESSEL: PAPERS.

151. The object of the examination of a Vessel's Papers is not only to learn particulars respecting the Vessel and her Cargo, but also to ascertain whether she is properly furnished with Ship-Papers.

152. The Commander should detain any Vessel which carries no Ship-Papers.

153. The Commander should detain any Vessel which carries false or simulated Ship-Papers.<sup>3</sup>

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<sup>1</sup> Maria, 1 C. Rob. 140.

<sup>2</sup> See Dana's note (No. 245) to Wheaton's Elements. Wildman ii., p. 126. Manning, p. 369. The Sampson Barney, cited in Maria, 1 C. Rob. 346, is hardly a satisfactory authority on this point, (also the note to Néréide, 9 Cranch, 444).

<sup>3</sup> Sarah, 3 C. Rob. 330.

154. The Commander should detain any Vessel whose Master or Crew have been guilty of Spoliation of Papers ;<sup>1</sup> that is, have wilfully destroyed or thrown overboard any of her Papers, with a view to deceive Commanders of British or Allied Cruisers.

155. In case of Spoliation of Papers, any excuse by the Master that the Papers destroyed were private papers, not concerning the Vessel or her Cargo, should not be entertained.<sup>2</sup>

156. The Commander *may* also detain a Vessel on account of her Ship-Papers in any of the following cases :<sup>3</sup>

1. If the most important of her Papers that should be on board are not forthcoming.
2. If the Papers on board are irregular.
3. If the Papers on board are inconsistent either with each other or with the statements of the Master. The Master is to be expected to know the name of the Owner of the Vessel and the general contents of her Papers.

157. No fixed rule can be laid down as to what amount of mere defectiveness, irregularity, or inconsistency in a Vessel's Ship-Papers will justify her Detention. The Commander must act upon his own discretion according to the circumstances of each case. The absence or irregularity even of the most important Ship-Papers may in some cases be satisfactorily accounted for ; and for this reason every opportunity of explanation should be given to the Master. On the other hand, deficiencies slight in themselves become serious if there is any cause for

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<sup>1</sup> Hunter, 1 Dod. 480.

<sup>2</sup> Two Brothers, 1 C. Rob. 131.

<sup>3</sup> Anna, 5. C. Rob. 373. Nostra Signora de Piedade Nova Aurora, 6 C. Rob. 41.



suspecting that they have arisen from simulation, suppression, or spoliation ; or if there are any circumstances connected with the Vessel or Cargo leading to the suspicion that the Vessel is not engaged in lawful commerce.

158. In case the Commander of the Cruiser is satisfied that the Vessel is engaged in lawful commerce, no mere defects, irregularities, or inconsistencies in her Ship-Papers will justify her Detention.

*What are Ship-Papers.*

159. Every Merchant Vessel should carry on board some Official Voucher for her Nationality, issued by the authorities of the Country to which she belongs. The Official Voucher of a Vessel which belongs to a Country possessing a Register of its Mercantile Marine, is a Certificate of her Registry : in other cases its form varies and it passes under different names—"Passport," "Seabrief," &c.

160. This Official Voucher is in all cases conclusive evidence of the Nationality of the Vessel as against the Master, but not in his favour. If, therefore, it turns out that the real Nationality of the Vessel is different from that indicated by the Official Voucher, the Master is debarred from claiming the benefit of such real Nationality, and is also compelled to submit to the disadvantageous consequences of it, if any.<sup>1</sup>

161. The absence of an Official Voucher is a grave cause of suspicion, and if unaccounted for, justifies the Detention of the Vessel.<sup>2</sup>

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<sup>1</sup> Fortuna, 1 Dodson, 81. Success, 1 Dodson, 131. Neptune, Spinks, 281.

<sup>2</sup> Caroline, Spinks, 252.

### 162. *The Certificate of Registry*

is a document signed by the Registrar of the Port to which the Vessel belongs, and usually specifies (*inter alia*) the name of the Vessel and of the Port to which she belongs ; her tonnage, &c. ; the name of her master : particulars as to her origin ; the names and descriptions of her registered owners.

### 163. *The Passport*

purports to be a requisition on the part of a Sovereign Power or State to suffer the Vessel to pass freely with her company, passengers, goods, and merchandise without any hindrance, seizure, or molestation, as being owned by citizens or subjects of such State. It usually contains the name and residence of the Master, the name, description, and destination of the Vessel.

### 164. *The Sea-Letter, or Sea-Brief,*

is issued by the Civil Authorities of the Port from which the Vessel is fitted out. It is a document entitling the Master to sail under the Flag and Pass of the Nation to which he belongs. It also specifies the nature and quantity of the Cargo, its ownership and destination.

### 165. *The Charter-Party*

is the written contract by which a Vessel is let, in whole or in part ; the person hiring being called the Charterer. It is executed by the owner or master and by the charterer. It usually specifies (amongst other things) the name of

the Master, the name and description of the Vessel, the port where she was lying at the time of the Charter, the name and residence of the Charterer, the character of the Cargo to be put on board, the port of loading, the port of delivery, and the freight which is to be paid.

The Charter-party is almost invariably on board a vessel which has been chartered.

#### 166. *The Official Log Book*

is the Log-Book which the Master is compelled to keep in the form prescribed by the municipal law of the Country to which the Vessel belongs.

#### 167. *The Ship's Log*

is the log kept by the Master for the information of the owners of the Vessels.

#### 168. *The Builder's Contract*

is to be expected on board a Vessel which has not changed hands since she was built. It is not a necessary document ; but it sometimes serves, in the absence of the Pass, or Sea-letter, or Certificate of Registry, to verify the Nationality of a Vessel.

#### 169. *The Bill of Sale*

is the instrument by which a Vessel is transferred to a purchaser. It should be required wherever a sale of the Vessel is alleged to have been made either during the War or just previously to its commencement, and there is

any reason to suspect that the Vessel is liable to Detention, either as an Enemy Vessel or as a British or Allied Vessel trading with the Enemy.<sup>1</sup>

#### 170. *Bills of Lading*

usually accompany each lot of goods. A Bill of Lading on board a Vessel is a duplicate of the document given by the Master to the Shipper of goods on occasion of the shipment. It specifies the name of the Shipper, the date and place of the Shipment, the name and destination of the Vessel, the description, quantity, and destination of the goods, and the freight which is to be paid.

#### 171. *The Invoices*

should always accompany the Cargo. They contain the particulars and prices of each parcel of goods, with the amount of the freight, duties, and other charges thereon, and specify the name and address of the Shippers and Consignees.

#### 172. *The Manifest*

is a list of the Vessel's Cargo containing the mark and number of each separate package, the names of the Shippers and Consignees : a specification of the quantity of the goods contained in each package, as rum, sugar, &c. : and also an account of the freight, corresponding with the Bills of Lading. The Manifest is usually signed by the Ship-broker who clears the Vessel out at the Custom-House, and by the Master.

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*V. supra* §§ 19, 40, 52, 53.

173. *The Clearance*

is the Certificate of the Custom House authorities of the last port from which the Vessel came, to show that the Custom-duties have been paid. The Clearance specifies the cargo and its destination.

174. *The Muster Roll*

contains the name, age, quality, place of residence, and place of birth of every person of the Vessel's company.

175. *Shipping Articles*

are the agreement for the hiring of seamen. They should be signed by every seaman on board, and should describe accurately the voyage and the terms for which each seaman ships.

176. *Bill of Health*

is a Certificate that the Vessel comes from a place where no contagious distemper prevails, and that none of her crew at the time of her departure were infected with such distemper.

177. *Varieties in Ship Papers.*

The Ship Papers on Board a Vessel vary according to her Nationality. The following Lists specify what

Ship-Papers may usually be expected on board Vessels belonging to the principal Maritime States :—

178. *Austria-Hungary.*

*Austria.*

TO ESTABLISH  
NATIONALITY. { Certificate of Registry (Certificato di Registro), or  
Provisional Certificate of Registry (Passavanti).

OTHER PAPERS  
REQUIRED. { Muster Roll (Ruolo d'Equipaggio).  
Official Log Book.  
Ship's Log Book.  
Manifest of Cargo.  
Bills of Lading.  
Charter-party, if Vessel is chartered.

*Hungary.*

Certificate of Registry (Certificato di Registro).

Muster Roll (Ruolo d'Equipaggio).  
Official Log Book.  
Ship's Log Book.  
Manifest of Cargo.  
Bills of Lading.  
Charter-party, if Vessel is chartered.

179. *Belgium.*

Sea-Letter (Lettre de Mer), available for 4 years.

List of the Crew (Rôle d'Équipage).  
Certificate of Registry (Régistre de Certificat de  
Jaugeage.)

Log Book.

Manifest of Cargo.

Bills of Lading (Les Connaissements).

Charter-party, if Vessel is chartered.

Acte de Propriété.

180. *Brazil.*

Certificate of Registry (Carta de Registro).

Special pass (Passe Especial) issued to vessels purchased by Brazilians out of the Empire, by the Brazilian Legation (or Consul) of the place, and constituting provisional proof of nationality.

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Passport (Pasaporte).

Muster Roll (Rol de Equipagém).

Manifest of Cargo.

Bills of Lading.

Log Book (?)

181. *Denmark.*

Certificate of Registry (Registrerings Certifikat).

Provisional Certificate of Registry (issued by the Government of the Danish Antilles, by the Governor of Iceland, or by the Sheriff of the Farøe Islands).

Provisional Certificate of Registry (issued by a Danish Consul abroad).

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List of the Crew (Liste.)

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

Log Book.

In addition to one of the above-mentioned documents, every Danish Vessel is required by law to have the mark

of nationality, D. E. (Dansk Eigendom), *i.e.*, Danish Property, the numerals indicating the tonnage, and the Signal Letters, distinctly marked on the main beam, or on some other conspicuous place in the Ship.

### 182. *France.*

Certificate of Nationality (Acte de Francisation, with particulars from the Acte de Propriété endorsed on it, or

Provisional Certificate of Nationality (Acte de Francisation Provisoire).

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Sailing License (Congé).

List of the Crew (Rôle d'Équipage).

Inventory of Ship's furniture, fittings, and stores.

Log Book.

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

“Acquits à caution” are only required of French vessels arriving at one French port from another French port.

### 183. *Germany.*

Certificate of Nationality (Schiff's Certificat).

Provisional Certificate of Nationality (Flaggen attest).

Certificate of Measurement for decked steamers (Schiff's Messbrief).

Certificate of Measurement for decked sailing vessels.

Provisional Certificate of Measurement for steamers and sailing vessels.



List of the Crew (Musterrolle).  
 Log Book.  
 Manifest of Cargo.  
 Bills of Lading.  
 Charter-party, if Vessel is chartered.

184. *Great Britain.*

Certificate of Registry.  
 Provisional Certificate, granted by a Consul resident  
 in a foreign country for a vessel bought there.

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Agreement and account of Crew.  
 Official Log Book.  
 Ship's Log Book.  
 Manifest of Cargo.  
 Bills of Lading.  
 Charter-party, if vessel is chartered.

185. *Greece.*

Certificate of Nationality.

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Congé, or Passport.  
 Inventory of Ship's fittings.  
 Certificate of Tonnage (Procès-verbal du Jaugeage).  
 Muster Roll, with Articles of Agreement.  
 Description of Visits to which Ship has been subjected  
 (Procès-verbaux).  
 Log Book.  
 Bill of Health.  
 Coasting Licence, for Vessels of five tons and under.  
 Livre des emprunts à la grosse.

186. *Holland.*

Sea-Letter (Zeebrief).

Provisional Sailing Licence (Voorloopige Zeebrief).

Extraordinary Sailing Licence (Buitengewone Zeebrief).

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Certificate of Measurement (Meetbrief voor Zeeschepen).

Proof of Ownership (Bijlbrief).

Muster Roll.

Log Book.

Manifest of Cargo.

Charter-party, if Vessel is chartered.

Bills of Lading.

("Certificates of Measurement" are given for interior and exterior measurement.)

187. *Italy.*

Certificate of Nationality (Atto di Nazionalità).

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List of Crew (Ruolo d'Equipaggio).

Certificate of Measurement (Certificato di Stanza)  
(for decked vessels).

Official Log Book.

Ship's Log Book.

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

188. *Portugal.*

Proof of Ownership (de propriedade).

Ship's Passport (Pasaporte Real).

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Muster Roll.

Log Book.

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

189. *Norway.*

Certificate of Nationality (Nationalitets bevis).

Provisional Certificate of Nationality may be granted by a Consul of Sweden and Norway in a foreign port, for a Vessel bought there by a Norwegian subject, to allow the Ship to be taken direct to a Norwegian port (the Consul, by application to his Government, can issue this document for a longer period).

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Certificate of Registry, if built in Norway.

Certificate of Tonnage (Maalebrev).

List of crew (Bemandings Liste).

Log Book.

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

190. *Russia and Finland.*

*Russia.*

Ship's Licence or Commission.

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Certificate of Tonnage.

Temporary Certificate of Tonnage.

Passport.

Manifest of Cargo.

Crew List or Agreement.

Charter-party, if Vessel is chartered.

*Finland.*

Certificate of Tonnage (Matebref).

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Certificate of Build (Bilbref).

Crew List, or Agreement (Sjomansrulla).

Charter-party, if Vessel is chartered.

Log book (?).

191. *Spain.*

Ship's Passport (Real Patente).

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Certificate of Registry (Certifico).

Ship's Articles (Rol de Navegacion).

Log Book (Cuaderno de Vitacora).

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

192. *Sweden.*

Certificate of Nationality (Fribref).

Provisional Certificate.

Certificate of Nationality (Fribref).

Certificate of Construction (Bilbref).

Certificate of Measurement (Mätbref).

} one  
document.

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List of Crew (Sjomansrulla).

Ship's Log Book (Journalen).

Manifest of Cargo.

Bills of Lading.

Charter-party, if Vessel is chartered.

Passport from a Chief Magistrate or Commissioner  
of Customs.

193. *Turkey.*

- (1.) Diary, or Log Book.
- (2.) Navigating Licence, with its Annex.
- (3.) Licence for Seamen, with its Annex.
- (4.) Manifest, with its Annex, and the form of receipt of the fees to be paid.
- (5.) Form of receipt for harbour fees to be paid at Constantinople.
- (6.) Licence given by the harbour master to ships of less than five tons burden.
- (7.) Form of receipt for Lighthouse dues.
- (8.) Form of receipt for the fees paid for Lifeboat Service established at the entrance of the Black Sea.
- (9.) Bill of Health.
- (10.) Form of receipt for sanitary fees.

NOTE.—Nos. 5, 7, 8, 9, and 10 are accompanied by French translations.

194. *United States.*

Certificate of Registry, or  
Provisional Certificate of Ownership, issued by United States Consuls to Citizens of the United States purchasing Vessels in a Foreign port.

Sea-Letter (occasional).

Shipping Articles.

Crew List.

Permit, to touch and trade—issued to licensed fishing vessels intending to touch at places out of the United States.

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Manifest of Cargo.

Bills of Lading.

Log Book.

Charter-party.

## PART III.

P R O C E D U R E  
TO BE FOLLOWED IN THE COURSE OF VISIT, SEARCH,  
AND DETENTION, AND SUBSEQUENTLY.

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## CHAPTER XV.

## VISIT.

*Precautions with a view to Joint Capture.*

195. As soon as a Vessel is sighted which the Commander suspects may be Lawful Prize of War, he should, with a view to any claims of Joint Capture that may be raised by himself or other Captors, appoint an Officer to observe and note in writing from time to time the following particulars :

1. *At the time the Vessel is sighted.* When and where the Vessel was first sighted : at what distance and in what direction she was from the Ship, and what course the Vessel was pursuing ; whether any other British or Allied Ship-of-War was in sight, and if so, at what distance and in what direction from the Vessel, and what course such Ship was pursuing.
2. *During the continuance of the chase.* Whether any alteration took place in the course of the Vessel ; whether any other British or Allied Ship-of-War came in sight, and if so,

when and where, and at what distance and in what direction from the Vessel, and what course such Ship was pursuing, and whether she joined in the chase, and if so, to what extent.

3. *At the Capture.* At what time and place the Vessel was come up with : and
  - a. If the Commander is the Actual Captor, whether any other British or Allied Ship-of-War was in sight at the time, and if so, at what distance and in what direction such Ship-of-War was from the Vessel, and what course such Ship was pursuing.
  - b. If such other British or Allied Cruiser is the Actual Captor, then at what distance and in what direction the Commander's Ship was from the Vessel, and what course his Ship was pursuing.

*Visit, how to be exercised.*

196. In exercising the right of Visit, the Commander should be careful to occasion to the Vessel no delay or deviation from her course that can be avoided, and generally to conduct the Visit in a manner as little vexatious as possible.

197. The Commander may chase, but under no circumstances may fire, under false colours.<sup>1</sup>

198. The Commander should not in any case require a Boat to be sent from the Vessel, or any Person or Papers to be brought from her on board his Ship.

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<sup>1</sup>Peacock, 4 C. Rob. 185.

199. If the state of the wind and weather permit, the Commander should communicate his intention to Visit by hailing, and then cause his Ship to go ahead of the suspected Vessel, and drop a boat alongside of her.

200. If the state of the wind and weather render such a course impracticable, the Commander should require the Vessel to be brought to. For this purpose he should give warning by firing successively two blank guns, and then, if necessary, a shot across her bows ; but before firing, the Commander, if he has chased under false colours or without showing his colours, should be careful to hoist the British Flag and Pendant.

201. If these measures fail to cause the Vessel to bring to, then, but not till then, the Commander will be justified in resorting to coercion.

202. When the Vessel has been brought to, the Commander should send a boat alongside of her.

203. A second Officer should (if convenient) accompany the Visiting Officer, and should be instructed to observe carefully every thing that occurs during the Visit, in order that, if required, he may be able to give his testimony.

204. The Visiting Officer and the Officer by whom he is accompanied should be in proper Uniform, and the Boat should carry a British Flag.

205. The only persons who should in the first instance go on board the Vessel are the Visiting Officer and the Officer by whom he is accompanied : none of the Crew should be allowed to quit the boat, unless expressly ordered. If found necessary, they should be ordered on board.



206. If the Visiting Officer, upon boarding, is at once satisfied that the Vessel is not liable to Detention, he should immediately quit her.

207. If not so satisfied, he should demand, but with all proper courtesy, to see the Vessel's Papers. In case of refusal, he should insist upon their production ; in the last resort he will be justified in adopting coercive measures, but it is important, so far as possible, to avoid any exercise of force.

208. The Visiting Officer should be careful to obtain the name of the Vessel correctly. He should not be content with taking it from the mouths of the Master and Crew, but should observe how the name is written in her Papers and painted on her stern and on her boats.

209. If after examining the Vessel's Papers the Visiting Officer is satisfied that she is not liable to Detention, he should immediately quit her.

210. Before quitting the Vessel, the Visiting Officer should ask the Master whether he has any complaint to make of the manner in which the Visit has been conducted, or on any other ground. If the Master makes any complaint, the Visiting Officer should request him to specify the particulars in writing.

211. The Visiting Officer should enter on the Log-book of the Vessel a Memorandum of the Visit. The Memorandum should specify the date and place of the Visit, and the name of Her Majesty's Ship and of the Commander ; and the Visiting Officer should sign the Memorandum, adding his rank in the Navy.

212. A similar Memorandum should be made on that document amongst the Vessel's Papers which may be supposed to determine her Nationality.

213. Immediately on his return to his Ship the Visiting Officer should draw up a statement of his proceedings, while the facts are fresh in his memory, specifying whether any complaint was made by the Master or any other person on board the Vessel, and, if so, what the complaint was. He should also deliver to the Commander any complaint which the Master may have made in writing, and the Commander should thereupon carefully investigate the case, and should lose no time in applying such remedy as circumstances may admit.

214. The Officer who accompanied the Visiting Officer should also draw up in detail and deliver to the Commander a statement of all the facts which he witnessed.

215. The Commander should see that a proper entry of all the necessary particulars is made in the Boarding-book, and also in the Log-book of the Ship. Both the Boarding-book and the Log-book should be signed by the Officers by whom the Visit was made.

216. The Commander should, by the first opportunity, forward a full Report of the Case, together with his own remarks thereon, to the Senior Officer on the Station ; and a Duplicate thereof to the Secretary of the Admiralty.

## CHAPTER XVI.

## SEARCH.

*How to be exercised.*

217. If, after an examination of the Vessel's Papers, the Visiting Officer is not satisfied that she is not liable to Detention, he should proceed to search her.

218. When the Search has been authorised, the Boat's Crew should be called on board to assist, and, if required, further assistance should be obtained from the Ship.

219. The Visiting Officer will also be justified in making inquiries from the Master and Crew ; but he should abstain from all threats or intimidation.

220. During the Search, neither the Master nor any other person should be removed from the Vessel without his own consent.

221. Care should be taken to prevent any irregularity, or any damage to the Cargo.

222. If in the course of the Search the Visiting Officer is satisfied that the Vessel is not liable to detention, the Search should be immediately discontinued ; every thing that has been removed should be replaced as quickly and carefully as possible, and the Vessel allowed to pursue her course without delay.

223. If the Visiting Officer finds on board any Ship-Papers relative to another Vessel already captured, but not adjudicated upon, he will take possession of them, and

forward them to that Port to which such other Vessel has been sent in for Adjudication.<sup>1</sup>

224. Before quitting the Vessel, the Visiting Officer should ask the Master whether he has any complaint to make of the manner in which the Search has been conducted, or on any other ground. If the Master makes any complaint the Visiting Officer should request him to specify the particulars in writing.

225. The Visiting Officer should enter on the Log-book of the Vessel a Memorandum of the Search. The Memorandum should specify the date and place of the Search, and the name of Her Majesty's Ship and of the Commander; and the Visiting Officer should sign the Memorandum, adding his rank in the Navy.

226. A similar Memorandum should be made on that Document amongst the Vessel's Papers which may be supposed to determine her Nationality

227. Immediately on his return to his Ship, the Visiting Officer should draw up a statement of his proceedings, while the facts are fresh in his memory, specifying whether any complaint was made by the Master or any other person on board the Vessel, and, if so, what the complaint was. He should also deliver to the Commander any Complaint which the Master may have made in writing, and the Commander should thereupon carefully investigate the case, and should lose no time in applying such remedy as circumstances may admit.

228. The Officer who accompanied the Visiting Officer should also draw up in detail and deliver to the Commander a statement of all the facts which he witnessed.

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<sup>1</sup> Romeo, 6 C. Rob. 351.

229. The Commander should see that a proper Entry of all the necessary particulars is made in the Boarding book, and also in the Log-book of the Ship. Both the Boarding-book and the Log-book should be signed by the Officers by whom the Search was made.

230. The Commander should, by the first opportunity, forward a full Report of the Case, together with his own remarks thereon, to the Senior Officer on the Station, and a Duplicate thereof to the Secretary of the Admiralty.

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## CHAPTER XVII.

### DETENTION.

231. If, upon Visit and Search of the Vessel, the Commander has reason to entertain any suspicion, he should give the Master an opportunity of explanation;<sup>1</sup> and if, after such opportunity given, he is satisfied that there is Proper Evidence against her amounting to probable cause for her Detention, he should detain her.

*What is Proper Evidence against a Vessel amounting to probable Cause for her Detention.*

232. Proper Evidence is such evidence as will be admissible before the Prize Court: viz. (1) facts appearing by inspection, as the character of the Vessel, her Equipment, Cargo, and Crew; (2) the Papers on board of her; and

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<sup>1</sup> Anna, 5 C. Rob. 385.

(3) the testimony of her Master and Crew. The Commander should remember that no evidence by any of the Captors in their own behalf will, at all events in the first instance, be admitted before the Prize Court.<sup>1</sup>

233. Evidence against the Vessel amounts to probable cause for her Detention when the circumstances connected with the Vessel and Cargo are such as to afford reasonable ground for belief that the Vessel or Cargo, or both, or part of the Cargo, might prove upon further inquiry to be Lawful Prize ; and it is immaterial whether these circumstances arise from the misconduct of the Master or are beyond his control.<sup>2</sup>

234. The Commander should bear in mind that, if the Court should find that the Vessel has been detained without probable cause,<sup>3</sup> then, although there has been nothing intentionally vexatious in his conduct,<sup>4</sup> he will be condemned in costs and damages, even to the extent of making good any losses that have been the result of inevitable accident to the Vessel and Cargo while in his hands.

235. On the other hand, if the Court comes to the conclusion that there was probable cause for the Detention, then, although the Vessel may be ordered to be restored, the Commander will be held to have been in lawful possession of her, and therefore not answerable for casualties.<sup>5</sup>

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<sup>1</sup> *Henrick and Maria*, 4 C. Rob. 57. *Haabet*, 6 C. Rob. 54. *Glierktigheit*, 6 C. Rob. 58*a*. *Fortuna*, 1 Dod. 81. *Aline and Fanny*, 10 Moore, P.C. 491.

<sup>2</sup> *Ostsee*, on appeal, *Spinks*, 175.

<sup>3</sup> *Nemesis*, *Edwards*, 50. *Hoppet*, *Edwards*, 369. *Elizabeth*, 1 *Acton*, 10. *Ostsee*, *Spinks*, 174.

<sup>4</sup> *Ostsee*, *Spinks*, 174. *Leucade*, *Spinks* 217.

<sup>5</sup> *John*, 2 *Dod*. 336.

*Detention upon Second Seizure.*

236. Sometimes it happens that the Vessel has been previously seized by another of Her Majesty's Cruisers, and allowed to proceed as not being Lawful Prize: in such case the Commander should use special precaution; but if he is nevertheless satisfied that there is probable cause for the Detention of the Vessel, he should detain her.<sup>1</sup>

*Detention the act of the Commander alone.*

237. The Commander of the Cruiser is alone responsible for the Detention of a Vessel, unless the Commander of the Squadron is actually present and coöperating, or himself expressly orders the Detention. The authority therefore for the formal Detention of a Vessel should in all cases proceed from the Commander. But any Officer of inferior rank, who, whilst at a distance from his Commander, falls in with a Vessel, and after Visit and Search, has reason to believe that she is liable to Detention, should hold possession of her till he has communicated with his Commander.

*Detention; how to be exercised.*

238. As soon as the Commander has come to the determination to detain the Vessel, he should give notice to the Master, and may state to him the ground on which the Detention is made.<sup>2</sup> The Commander should then without delay secure possession of the Vessel, by sending on board one of his Officers and some of his own Crew. If by reason of rough weather or other circumstances this is

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<sup>1</sup> Mercurius, 1 C. Rob. 80. Odessa, Spinks, 208.

<sup>2</sup> Juffrow Maria Schroeder, 3 C. Rob. 147.

impracticable, the Commander should require the Vessel to lower her flag, and to steer according to his orders.<sup>1</sup>

*Papers to be secured.*

239. Upon obtaining possession of the Vessel, the first duty of the Commander is to secure all the Papers belonging to the Vessel, as well those which are usually denominated "Ship Papers," and which relate only to the Vessel and Cargo,<sup>2</sup> as all other Papers, of whatever description, which may be either delivered up or found on board.

240. The Vessel's Papers, as soon as secured, should be arranged and numbered in consecutive order, care being taken that the enclosures are not separated from their envelopes. The importance of securing all the Vessel's Papers is manifest, inasmuch as the evidence to acquit or condemn the Prize must in the first instance come solely from the Prize herself, namely, from the Papers on board and from the depositions on oath of the principal persons belonging to the Prize.

*Papers to be verified by Affidavit.*

241. As soon as the Vessel's Papers have been arranged and numbered, an Affidavit should be prepared for their verification. The Affidavit may, in default of directions from the Admiralty, be in Form No. 4, page 98, and should always, if possible, be made by the person who found the Papers, or to whom they were delivered up at the time of the Capture. The Affidavit should then be faircopied on foolscap paper, a broad margin being

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<sup>1</sup> Edward and Mary, 3 C. Rob. 305. Hercules, 2 Dod. 353.

<sup>2</sup> V *supra* §§ 159-194.



left at the side, and the whole of the Vessel's Papers, numbered as aforesaid, should then be annexed thereto.

242. If any Papers have been destroyed or thrown overboard, a further separate Affidavit of the fact must be prepared. The Affidavit may, in default of directions from the Admiralty, be in Form No. 5, page 99, and it should, if possible, be made by one of the persons who saw the Papers destroyed or thrown overboard, or who succeeded in saving any of them after they had been thrown overboard. All Papers so saved must be arranged and numbered before the Affidavit is made, and, after it has been made, must be annexed thereto.

243. Again, should any Papers be found concealed in any part of the Vessel, a further separate Affidavit of the fact must be prepared. The Affidavit may, in default of directions from the Admiralty, be in Form No. 6, page 100, and it should, if possible, be made by the person who discovered the Papers. All Papers so found concealed should be arranged and numbered before the Affidavit is made, and, after it has been made, must be annexed thereto.

244. The Affidavits should, on the first convenient opportunity, be sworn before one of Her Majesty's Consuls or Vice-Consuls abroad, or before some other person duly commissioned to administer Oaths in Prize Matters ; but no Naval Officer, although so commissioned, may act as Commissioner, or administer oaths, in any case in which he himself is personally interested.

*Account to be taken of Valuables.*

245. The Commander should cause an Account to be taken in writing of all money and valuables found on board

the Vessel. It will be convenient that this Account should be taken in duplicate, and duly certified, and one copy given to the Master. In default of directions from the Admiralty, the Certificate may be in Form No 7, page 101.

*If necessary, the Vessel afterwards to be released.*

246. If, after the Detention of the Vessel, there should come to the knowledge of the Commander any further facts tending to show that the Vessel has been improperly detained, he should immediately release her, taking care to replace, as far as possible, every thing in its original position.

*General duties on making a Capture.<sup>1</sup>*

247. When any Ship or Vessel shall be captured or detained, her hatches are to be securely fastened and sealed, and her lading and furniture, and in general, everything on board, are to be carefully secured from embezzlement; the Officer placed in charge of her shall prevent anything from being taken out of her until she shall have been tried, and sentence shall have been passed on her in a Court of Prize.

*Evidence and Documents.*

248. The Captain of the capturing or detaining Ship shall cause the principal Officers of the Vessel detained, and such other persons of the Crew as he shall think fit, to be examined as Witnesses in the Prize Court to prove

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<sup>1</sup> At the risk of some repetition it has been thought desirable here to insert in the following five sections the substance of five sections of the Admiralty Regulations. They occur, nearly in their present form, in the Regulations as first printed in 1731, as "approved by His Majesty in Council."

to whom the Vessel and Cargo belong ; and he shall send to the Court all Passports, Custom-house Clearances, Log-Books, and all other Ship's Papers, which shall be found on board, without suffering any of them to be on any pretence secreted or withheld.

*Treatment of Prisoners.*

249. The Captain and the Prize Master are to take particular care that all Prisoners of War are treated with humanity ; that their personal property is carefully protected ; that they have their proper allowance of provisions, viz., two-thirds of all species, except Spirit, Wine, or Beer, of which none shall ever be issued to them ; and that every comfort of air and exercise, which circumstances admit of, be allowed them ; but, to prevent any hostile attempts on their part, they are to be always attentively watched and guarded, especially when many of the Ship's Company may happen to be employed aloft.

*Acting as a Ship of War without a Commission.*

250. If any Ship or Vessel shall be taken acting as a Ship of War or Privateer, without having a Commission duly authorising her to do so, a full report of all the particulars is at once to be made to the Admiralty.

*British Subjects serving in an Enemy's Ship.*

251. If any person found serving on board an Enemy's Ship of War or Privateer shall be suspected to be one of Her Majesty's subjects, not having lawfully renounced his allegiance, he shall be kept Prisoner until directions are

received as to the mode in which he shall be dealt with. The Captain shall, by the first opportunity, send to the Admiralty an account of such suspected person, and of his place of birth, if known, and also any statements he may voluntarily make ; and shall likewise direct some of the Officers and Men of the Ship to notice very particularly every circumstance of the case, that they may be able to give evidence.

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## CHAPTER XVIII

### JOINT CAPTURE.

#### *Joint Capture by British Ships-of-War.*

252. The Ship to which a Prize strikes her Flag is the Actual Captor. Other Ships may be held by the Prize Court entitled to share as joint Captors on the ground either of Association or of Co-operation with the Actual Captor.

253. If Ships are associated or co-operating together, a Capture made by one inures to the benefit of all.

#### *Association.*

254. The Bond of Association exists—

- (1) Between Ships composing a Blockading or Cruising Squadron ; with the exception of those which are absent at the time of the Capture, by reason of having been detached upon a separate service.

- (2) Between Ships chasing together, provided that the Senior of the Commanders of the several Ships has assumed the command over all.

*Co-operation.*

255. Ships being in sight of the Prize, as also of the Captor, under circumstances to cause intimidation to the Prize and encouragement to the Captor, are held to be Co-operating with the Actual Captor.

256. In all cases of alleged Joint Capture the Commander, whether he is the Actual Captor, or claims to be Joint Captor, should, as soon as possible after the Capture, draw up a list of all the officers, seamen, marines, soldiers, and others who were actually on board his ship on the occasion of the Capture; and also a list of the names of those belonging to the Crew who were absent on duty or otherwise at the time; and the cause of such absence should be specified. Each list should contain the quality of the service of each person and their several ratings; and must be subscribed by the Commander and three or more of the Chief Officers on board.

257. The Commander should then send these lists, together with the particulars specified in Section 195, and his Report of the whole proceeding, to the Secretary of the Admiralty.<sup>1</sup>

258. The distribution of all Prize Money is regulated by the Royal Proclamation of the 3rd August, 1886.<sup>2</sup>

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<sup>1</sup> Royal Proclamation, Aug. 3 1886, *q.v.* Appendix No. VIII.

<sup>2</sup> *Q.v.* Appendix, No. VIII.

*Joint Capture by British and Allied Ships-of-War.*

259. In the case of Captures made jointly by British and Allied Ships-of-War, the duties of the respective Commanders are usually regulated by treaty.<sup>1</sup>

260. In default of Treaty regulations, then,

- a. If one Ship is the Actual and another the Joint Captor, the charge of the Prize belongs to the Commander of the Ship which is the Actual Captor, whether he is the Junior or Senior ; and he should send her into a Port of his own country for Adjudication.
- b. If two Ships are both Actual Captors, the charge of the Prize belongs to the Senior of the two Commanders ; and he should send her into a Port of his own country for Adjudication.

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CHAPTER XIX.

RECAPTURE.

*Recapture of a British Vessel.*

261. It is the duty of the Commander, if possible, to rescue any British Vessel which he may find attacked or captured by the Enemy.

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<sup>1</sup> A copy of the Convention made for this purpose between Great Britain and France during the War with Russia in 1854, will be found in the Appendix, No. III. A similar Convention was made between Great Britain and France in 1860, with a view to the war with China. Martens, N. R. G. t. xix. p. 460.

262. If he succeed in effecting the rescue of such a Vessel, he may either at once send her in for Adjudication, or at his option, unless she shall have been already carried into an Enemy's Port, or set forth or used by the Enemy as a Ship of War, allow her to prosecute her voyage and unlade and dispose of her Cargo.

263. Upon Adjudication, the Prize Court will order the Vessel and Cargo to be restored to their respective owners upon payment by them of Prize Salvage.

264. If the Commander shall have allowed the Vessel so to prosecute her Voyage, he will be allowed to defer proceedings for Adjudication till the return of the Vessel to a Port within the United Kingdom.

265. In case the Vessel shall not, within six months, return to some Port within the United Kingdom, the Recaptors may, nevertheless, institute proceedings against the Ship or Goods in the Court exercising Prize jurisdiction in England, and the Court may thereupon award Prize Salvage, and may enforce the payment thereof either by Warrant or Arrest against the Ship or Goods or by Monition and Attachment against the owner.<sup>1</sup>

266. The Prize Salvage which will be awarded to the Recaptors for the Recapture of any British Vessel before she has been actually carried into an Enemy's Port is one-eighth part of the value of the Prize ; or, in case the Recapture has been made under circumstances of special difficulty or danger, a sum not exceeding one-fourth part of the value.<sup>2</sup>

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<sup>1</sup> See Naval Prize Act, 1864, Sec. 41. It may be as well here to observe that by the Supreme Court of Judicature Act, 1873, the jurisdiction of the High Court of Admiralty has been transferred to the High Court of Justice, and provisionally to the Probate, Divorce, and Admiralty Division of that Court.

<sup>2</sup> See Naval Prize Act, 1864, Sec. 40.

267. If, however, the Vessel has, before her Recapture, been set forth or used by the Enemy as a Ship of War, then, upon Recapture, the original owner is not entitled to Restitution, but both Vessel and Cargo will be condemned as Lawful Prize to the Recaptors.<sup>1</sup>

268. The Commander will be justified in considering a Vessel to have been set forth or used by the Enemy as a Ship of War, if, after Capture, she has been commissioned by the Enemy as a Ship of War, or has been used as a Privateer, or has been armed by an Enemy Officer ostensibly in the exercise of authority ; but not if no more has been done to her than the augmentation of her crew, or the arming of her by persons not in authority.

*Recapture of a British Prize.*

269. It may happen that an Enemy Vessel which has been captured by a British Cruiser, is afterwards lost to an Enemy's Cruiser, and finally recaptured by another British Cruiser. The Commander effecting such a Recapture should send the Vessel in for Adjudication, and the original Captors are not entitled to Restitution, but both Vessel and Cargo will be condemned as Lawful Prize to the Recaptors.

*Recapture of a Neutral Vessel.*

270. If a Commander recapture from the Enemy a Neutral Vessel, which would not have been liable to condemnation in the Prize Court of the Enemy, he is not entitled to Salvage ; and should, without delay and without taking ransom, set her free to prosecute her Voyage.<sup>2</sup>

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<sup>1</sup> Naval Prize Act, 1864, Sec. 40.

<sup>2</sup> War, Onskan, 2 C. Rob. 299.



*Recapture of an Allied Vessel.*

271. If a Commander recapture from the Enemy an Allied Vessel, his duty is generally regulated by Treaty. In default of Treaty Regulations he will send her in to a British Port for Adjudication ; and the Prize Court will award Salvage or not, according as the Prize Court of the Ally would or would not have awarded Salvage to an Allied Ship for recapturing a British Vessel.

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## CHAPTER XX.

## SENDING TO PORT OF ADJUDICATION.

272. After Detention, the Commander should as soon as possible send the Vessel and Cargo in for Adjudication.

*Ransom only in cases authorised by Order in Council.*

273. The Commander is not at liberty, in lieu of sending the Vessel and Cargo in for Adjudication, to take either Ransom or Bail for the same, except in such cases as may be provided for by any Order of Her Majesty in Council which may be made in this behalf. If he enter into any Contract or Agreement for a Ransom in Contravention of such order in Council, he is liable for every such offence to be proceeded against in the Probate, Divorce, and Admiralty Division of the High Court of Justice, at the Suit of Her Majesty in her Office of Admiralty, and, on conviction, to be fined at the discretion of the Court any sum not exceeding 500*l*.<sup>1</sup>

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<sup>1</sup> See Naval Prize Act, 1864, sect. 45.

*Penalty for delay in sending in for Adjudication.*

274. If the Commander is guilty of unnecessary delay in sending the Vessel and Cargo in for Adjudication, he will, in the event of restoration being decreed, be liable for damages.<sup>1</sup>

*What are Proper Ports of Adjudication.*

275. By a Port of Adjudication is meant a Port to which the Vessel and her Cargo are sent in order that they may lie there in safety pending proceedings for Adjudication.

276. The Port of Adjudication should, if possible, be a British Port, whether in the United kingdom or elsewhere in the British Dominions ; if not, an Allied Port ;<sup>2</sup> but in the latter case it will be necessary, in order that proceedings for Adjudication may be duly instituted, for the Commander to forward the witnesses, together with the Vessel's Papers and necessary Affidavits, in charge of one of the Officers of his Ship to the nearest British Prize Court.

277. None but a British or an Allied Port can be a proper Port of Adjudication ; although in cases of necessity hereafter considered,<sup>3</sup> resort may be had to a Neutral Port.<sup>4</sup>

*Port of Adjudication ; how to be selected.*

278. From the many Ports which are proper Ports of Adjudication, the Commander should select the one which, upon a consideration of all the circumstances, shall seem

<sup>1</sup> Peacock, 4 C. Rob. 185. Susanna, 6 C. Rob. 48. Gerasimo, 11 Moo. P.C. 88.

<sup>2</sup> Christopher, 2 C. Rob. 209. Betsy, 2 C. Rob. 210, n.

<sup>3</sup> *Infra* §§ 296-298.

<sup>4</sup> Henrick and Maria, 4 C. Rob. 43. Comet, 5 C. Rob. 96. Polka, Spinks, 57.

the most convenient. He should have regard in the first place to the exigencies of the Public Service, and in the second place to the interests of all parties concerned<sup>1</sup>—namely, the owners of the Vessel, the owners of the Cargo, and the Captors. These interests require (amongst other things)—

1. That the Port should be capable of giving safe harbourage to the Vessel.<sup>2</sup>
2. That it should be large enough to admit the Vessel without unlivery of her Cargo.<sup>2</sup>
3. That it should offer easy communication with the Prize Court before which the case is to be adjudicated.<sup>2</sup>
4. That it should be as near as possible to the place of Capture.<sup>3</sup>

279. If the Commander, in selecting a Port of Adjudication, unreasonably disregard the interests of the Owners of the Vessel and Cargo, he will be liable for damages.

*Provision for Navigation of the Vessel.*

280. Having selected the Port of Adjudication, the Commander should appoint a Prize Officer to take charge of the Vessel.

281. The Commander may invite the Master and Crew of the Vessel to assist in navigating her to the Port of Adjudication under the orders of the Prize Officer ;<sup>4</sup> but if they refuse, he will not be justified in coercing them.<sup>5</sup>

<sup>1</sup> Anna, 5 C. Rob. 373. Hunter, 1 Dod. 482.

<sup>2</sup> Washington, 6 C. Rob. 275. Principe, Edwards, 70.

<sup>3</sup> Peacock, 4 C. Rob. 185. Wilhelmaburg, 5 C. Rob. 143. Anna, 5 C. Rob. 373. Catharina Elizabeth, 1 Acton 309. Maryland, cited 1 Acton 310. Hunter, 1 Dods. 482.

<sup>4</sup> Resolution, 6 C. Rob. 13.

<sup>5</sup> Pennsylvania, 1 Acton 33.

282. He should place under the command of the Prize Officer a Prize Crew, sufficient for the safe conduct of the Vessel, regard being had to her size and character and condition, the length and nature of the voyage, the number of her crew, their disposition to co-operate or resist, and all other circumstances of the case.

*What is to be sent with the Vessel.*

283. If possible, the Vessel should be sent in to the Port of Adjudication in the same condition as when she was taken, with her Master, Crew, and all her Cargo on board.<sup>1</sup> Sometimes, however, it is impracticable for the Commander wholly to fulfil this Requisition. His duty in such case is prescribed hereafter.<sup>2</sup>

284. The Affidavits and Vessel's Papers must be forwarded in the Vessel to the Port of Adjudication. If the Affidavits have not been sworn at the time when the Vessel is despatched for the Port of Adjudication, it will be necessary that some person should be sent with her to whose charge the Papers should be intrusted, and who will be able, upon the arrival of the Vessel at the Port of Adjudication, to make the Affidavits verifying the Papers, and to depose (if required) as to all the circumstances of the Capture. If the Affidavits have been duly sworn before the Vessel is sent in for Adjudication, they should, together with the Vessel's Papers annexed thereto, be enclosed in an envelope securely sealed up and addressed to the Registrar of the Court before which the case is to be adjudicated, and should be given to the Prize Officer with directions to deliver the same unopened into the Registry.

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<sup>1</sup> Speculation, 2 C. Rob. 293. Flying Fish, 2 Gall. 374.

<sup>2</sup> §§ 286—295.

*Insurance of Prize.*

285. The risk attending the Vessel and Cargo until sold or released by Order of a Prize Court falls upon the Captors. Accordingly it lies with the Commander to insure the Vessel and her Cargo, if he think any insurance advisable.

*Duty of Captor, if unable to send in the whole of Crew to Port of Adjudication.*

286. If it is impracticable to send the whole of the Crew in the Vessel to the Port of Adjudication, the Commander should at least send three or four of the principal persons to be witnesses, and amongst these should be two of the following officers : viz. the Master, Supercargo, Mate, or Boatswain.

287. The Commander should at the same time draw up an Affidavit, to be made by the Prize Officer, stating what persons have been removed, and what is the cause of their removal. In default of directions from the Admiralty, the Affidavit may be in Form No. 8, page 102. .

288. All persons so removed should as soon as possible be forwarded to the Port of Adjudication ; and in the meantime should be provided for, either on board ship or on shore, as may be found most convenient.

*Duty of Captor, if Cargo is unfit to be sent to Port of Adjudication.*

289. If the Cargo appear to be not in a condition to be sent into a proper Port of Adjudication, the Commander

should cause a Survey thereof to be made by the Officers of his Ship the best qualified for the duty.

290. The Surveying Officers should report to the Commander in writing ; and the Report should be signed by them, and entered on the Log of the Ship.

291. If the Surveying Officers report that the Cargo is not in a condition to be sent into a proper Port of Adjudication, the Commander should cause it to be sold.

292. The sale may be made either on the spot or in any Neutral Port where the local authorities may be willing to allow the Sale to take place ; and for the purpose of selling the Cargo at a Neutral Port, the Commander may either send the Vessel in the first instance to such Port, or cause the Cargo to be transhipped, and so forwarded.

293. Previous to the sale, the Cargo, or such part as is intended to be sold, should be appraised. The Appraisers should be as competent persons as can be obtained, and should be sworn to be impartial, and the Appraisal should be in writing.

294. The sale should be made by the authority and in the presence of the Prize Officer, and, if possible, by public auction ; and the proceeds of the sale should be remitted without delay, in pursuance of any Regulations that may be made for this purpose by Order in Council, or, in the absence of such Regulation, into the Bank of England to the Credit of Her Majesty's Paymaster-General, or into the hands of some Government Accountant ; and the Prize Officer should draw up an Affidavit of all the proceedings, and annex to it the Report of the Surveying Officers, the Appraisal, Account Sales and other documents, and take the same in the Vessel to the Port of Adjudication.

295. In default of directions from the Admiralty, the Affidavit may be in Form No. 9, page 103.

*Duty of Captor, if the Vessel is unfit to be sent to a proper Port of Adjudication.*

296. If the Vessel appear to be not in a condition to be sent into a proper Port of Adjudication, the Commander should cause a Survey to be made thereof by the Officers of his Ship the best qualified for the duty.

297. The Surveying Officers should report to the Commander in writing ; and the Report should be signed by them, and entered on the Log of the Ship.

298. If the Surveying Officers report that the Vessel is not in a condition to be sent into a proper Port of Adjudication, the Commander should, if practicable, take her into the nearest Neutral Port that may be willing to admit her.

299. The Commander, however, must bear in mind that he cannot take the Vessel into a Neutral Port against the will of the Local authorities ; and that under no circumstances can proceedings for Adjudication be instituted in a Neutral Country.<sup>1</sup>

300. Both the Cruiser and, if admitted, her Prize are by the Comity of Nations exempt from the local jurisdiction.<sup>2</sup>

301. If the Vessel is admitted into a Neutral Port, then, in order that proceedings for Adjudication may be duly

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<sup>1</sup> Flad Oyen, 1 C. Rob. 135.

<sup>2</sup> Cushing, Attorney-Generals Opinions, vii 123.

instituted, the Commander should forward the witnesses, together with the Vessel's Papers and necessary Affidavits, in charge of one of the Officers of his Ship to the nearest British Prize Court.

302. Amongst the Affidavits must be one, to be made by the Prize Officer, stating the circumstances under which the Vessel was sent to the Neutral Port, and having the Report of the Surveying Officers annexed thereto. In default of directions from the Admiralty, the Affidavit may be in Form No. 10, page 104.

303. In either of the following cases :

- (1) If the Surveying Officers report the Vessel not to be in a condition to be sent in to any port for Adjudication ; or,
- (2) If the Commander is unable to spare a Prize Crew to navigate the Vessel to a Port of Adjudication,

the Commander should release the Vessel and Cargo without ransom, unless there is clear proof that she belongs to the Enemy.<sup>1</sup>

304. But if in either of these cases there be clear proof that the Vessel belongs to the Enemy, the Commander should remove her Crew and Papers, and, if possible, her Cargo, and then destroy the Vessel. The Crew, and the Cargo (if saved), should then be forwarded to a proper Port of Adjudication in charge of a Prize Officer, together with the Vessel's Papers and the necessary Affidavits. Amongst the Affidavits should be one, to be made by the Prize Officer, exhibiting the evidence that the Vessel belonged to the Enemy, and the facts which rendered it impracticable to send her in for Adjudication.

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<sup>1</sup> Actæon, 2 Dod. 48. Felicity 2 Dod. 381. Leucade, Spinks, 288.



## CHAPTER XXI.

## DUTIES OF THE PRIZE OFFICER.

305. Immediately upon going on board, the Prize Officer should draw up an Inventory of the Stores, Furniture, and Cargo of the Vessel, so far as can be ascertained without disturbing the stowage. He should invite the Master to assist him in drawing up this Inventory, and should in all cases deliver a copy thereof signed by himself to the Master. In default of directions from the Admiralty, the Inventory may be in form No. 11, page 105.

306. The Prize Officer should keep a Log of his proceedings from the time he goes on board until his arrival at the Port of Adjudication, and note therein any changes that may take place on the voyage in regard to the Vessel, her Cargo, or Crew.

307. The Prize Officer should endeavour by all proper means to obtain additional information as to the case; and if in the course of the voyage any additional Papers are delivered up, or are thrown overboard and picked up, or are found concealed, he should at once cause them to be arranged, numbered, and annexed to an Affidavit to be prepared in one of the Forms Nos. 12, 13, or 14, pages 106, 107, 108, according to circumstances. The Affidavit may be sworn during the Voyage, if opportunity occur, or upon the arrival of the Vessel at the Port of Adjudication.

308. The Prize Officer is bound to use the strictest care in navigating the Vessel. If there is any want of care, and loss accrues to the Vessel or her Cargo there-

from, then, in the event of restoration being decreed, the Commander will be personally liable for damages.<sup>1</sup>

309. The omission to employ a Pilot, in places where pilotage is usual, is want of care.<sup>2</sup>

310. The Prize Officer is bound to navigate the Vessel straight to the Port of Adjudication ; and if this duty is observed, then (provided that there was probable cause for the original Detention) the Captors are not responsible for mere accidents or for after-capture by the Enemy.<sup>3</sup> But if the Vessel is without necessity navigated out of her proper course (as for the purpose of effecting the capture of other Vessls),<sup>4</sup> and any accident ensues therefrom to the Vessel or Cargo, then, in the event of restoration being decreed, the Commander will be liable for damages.

311. The Prize Officer should take the strictest precautions for the preservation of the Cargo on board the Vessel, and for the prevention of embezzlement or irregularity of any kind : and if it be practicable, he should seal the hatches.

312. If any embezzlement take place, the Commander will be personally liable for damages.<sup>5</sup>

313. The Prize Officer should be upon his guard against any attempt at recapture, but should not subject the Master and Crew of the Vessel to any further restraint than may be necessary.<sup>6</sup> Clear necessity alone will justify him in putting them into irons.<sup>7</sup>

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<sup>1</sup> William, 6 C. Rob. 316.

<sup>2</sup> Der Mohr, 3 C. Rob. 129, 4 C. Rob. 314. William, 6 C. Rob. 316.

<sup>3</sup> John, 2 Dod. 336.

<sup>4</sup> Susanna, 6 C. Rob. 48.

<sup>5</sup> Concordia, 2 C. Rob. 102.

<sup>6</sup> Dispatch, 3 C. Rob. 279. Die Fire Damer, 5 C. Rob. 357. Lively, 1 Gall. 315.

<sup>7</sup> St. Juan Baptista and Purissima Conception, 5 C. Rob. 33.

314. If absolutely necessary, but not otherwise, the Prize Officer will be warranted in removing the Master Crew, or Cargo from the Vessel, and in transferring them to other Vessels ; but in all such cases it will be his duty to draw up an Affidavit stating what persons or things are removed, and what is the cause of their removal. In default of directions from the Admiralty, the Affidavit may be in Form No. 15, page 109. The Affidavit may be sworn during the voyage, if opportunity occur, or upon the arrival of the Vessel at the Port of Adjudication. All persons and things that may have been so removed should be forwarded without delay to the Port of Adjudication.

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## CHAPTER XXII.

### PROCEEDINGS IN PORT OF ADJUDICATION.

#### *Duties of the Prize Officer as to Customs.*

315. Upon the Arrival of the Vessel in Port, if the Port is a Port of the United Kingdom, the Prize Officer must bring to at the proper place of Discharge, and must (under penalty of 100*l.*), when required by any Officer of Customs, deliver an account in writing, under his hand, concerning the Vessel and her Cargo, and give any other information in his power that may be asked of him by

such Officer, and must allow any such Officer **freely** to go on board and search the Vessel, **and** carry to the Queen's Warehouse any of the Goods on board.<sup>1</sup>

*Duty as to Vessel, Crew, and Cargo.*

316. The Prize Officer should deliver up the Vessel, her Crew and Cargo, forthwith and without bulk broken, into the custody of the Marshal ; or in the absence of such Officer, into the custody of the principal Officer of the Customs at the Port.<sup>2</sup>

*Duty as to Proceedings for Adjudication.*

317. Upon the arrival of the Vessel in Port, the Prize Officer should at once cause proceedings for Adjudication to be instituted.<sup>3</sup> He should diligently watch the cause throughout, and should be careful to show all proper deference to the Court, and to afford it all the assistance in his power.

318. The proceedings for Adjudication must, unless under instructions authorizing proceedings in the Courts of an Ally, be instituted in a British Prize Court ;<sup>4</sup> that is in the Court exercising Prize Jurisdiction in England, or some other Court exercising Jurisdiction in Her

<sup>1</sup> Naval Prize Act, 1864, Sec. 48.

<sup>2</sup> Naval Prize Act, 1864, Sec. 16.

<sup>3</sup> *Corier Maritimo*, 1 C. Rob. 287. *Huldah*, 3 C. Rob. 235. *Madonna del Burso*, 4 C. Rob. 111. *Peacock*, 4 C. Rob. 185. *William*, 4 C. Rob. 214. *San Juan Baptista and La Purissima Conception*, 5 C. Rob. 35. *Susanna*, 6 C. Rob. 48.

<sup>4</sup> *Flad Oyen*, 1 C. Rob. 134. *Kierlighett*, 3 C. Rob. 96. *Falcon*, 6 C. Rob. 194.

Majesty's Dominions, for the time being authorized to take cognisance of and judicially proceed in matters of Prize.<sup>1</sup>

319. The Procedure and Practice in Prize Courts are regulated by Orders of Her Majesty in Council. Such orders may now, in pursuance of "The Naval Prize Act, 1864,"<sup>2</sup> and subject to the provisions of that Act, be, from time to time, framed by the Judicial Committee of the Privy Council, "with the Judge of the High Court of Admiralty,"<sup>3</sup> to come into effect after approval by Her Majesty in Council.<sup>4</sup>

320. If the Prize Officer fails to cause proceedings for Adjudication to be instituted or prosecuted with effect, the Commander will be personally liable for damages on account of the delay ; and any Claimant may apply for and obtain against the Captors a Monition returnable within six days from the service thereof, citing them to appear and proceed to Adjudication ; and on the return of the Monition the Court may either forthwith proceed to Adjudication or direct further proof to be adduced.<sup>5</sup>

321. For the purpose of proceeding to Adjudication, the Prize Officer should as soon as possible after his arrival at the Port apply to the Queen's Proctor at the Port, for instructions as to the Evidence which he is to produce.

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<sup>1</sup> Naval Prize Act, 1864, Sec. 3, as modified by the Judicature Act, 1873, Sects. 31, 34. For a list of Vice-Admiralty Courts, to which Prize commissions may possibly be granted, *see* Appendix, No. IX.

<sup>2</sup> *Q.v. infra*, Appendix, No. VI.

<sup>3</sup> By the Judicature Act, 1873, the jurisdiction of the High Court of Admiralty was transferred to the High Court of Justice, and is at present assigned to the Probate, Divorce, and Admiralty Division thereof, consisting of two Judges.

<sup>4</sup> Naval Prize Act, 1864, Sec. 13.

<sup>5</sup> Naval Prize Act, 1864, Sec. 32.

322. If the Affidavits verifying the Vessel's Papers have not already been sworn, they should be immediately sworn.

323. The Prize Officer should forthwith bring the Affidavits and all the Vessel's Papers into the principal Registry of the Court.<sup>1</sup> Any Paper which the Prize Officer has failed to produce in the first instance will not be allowed to be produced at a later stage in the suit, unless the delay is satisfactorily explained to the Court.<sup>2</sup>

324. The Prize Officer should at the same time bring three or four of the principal persons belonging to the Vessel, and who were on board the Vessel at the time of her Detention,<sup>3</sup> before the Judge of the Court or some person authorized in this behalf, who will examine them on oath on the Standing Interrogatories. Such examination is called the Preparatory Examination, or Examination *in præparatorio*. A copy of the Interrogatories used in the war of 1854 will be found in Form No. 16, page 110.

325. As soon as the Affidavit as to the Vessel's Papers has been filed, a Monition will issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the Vessel and Cargo should not be condemned. And any person may, either before or after the Monition has been taken out, enter a claim to the Vessel or Cargo verified by Affidavit.<sup>4</sup>

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<sup>1</sup> Naval Prize Act, 1864, Sec. 17.

<sup>2</sup> *Anna*, 1 C. Rob. 331. *William and Mary*, 4 C. Rob. 381.

<sup>3</sup> *Henrick and Maria*, 4 C. Rob. 43, 45, 47. *Eliza and Katy*, 6 C. Rob. 185. Naval Prize Act, 1864, Sec. 19.

<sup>4</sup> Naval Prize Act, 1864, Sec. 23.

326. After the return of the Monition, and the conclusion of the Preparatory Examination (*in præparatorio*), the cause will be set down for hearing. At the hearing the only evidence will be the Vessel's Papers and the Answers of the Master and Crew to the Standing Interrogatories.<sup>1</sup> The Captors will not, in the first instance, be suffered to give evidence unless under special circumstances.

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<sup>1</sup> Aline and Fanny. 10 Moore, P.C. 491.





## FORMS.

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FORM No. 1 (referred to in Sect. 122).

*Declaration of Blockade.*

I hereby declare, that on the \_\_\_\_\_ day of \_\_\_\_\_  
 the \_\_\_\_\_, from \_\_\_\_\_, in latitude  
 \_\_\_\_\_, longitude \_\_\_\_\_, to \_\_\_\_\_ in latitude  
 \_\_\_\_\_, longitude \_\_\_\_\_, were placed in a state  
 of Blockade by a competent force of Her Majesty's Ships,  
 and are now in such state of Blockade; and that all  
 measures authorised by the Law of Nations and the  
 respective Treaties between Her Majesty and the different  
 Neutral Powers, will be enforced on behalf of Her Majesty  
 against all Vessels which may attempt to violate the  
 Blockade.

Given on board Her Majesty's Ship \_\_\_\_\_,  
 at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_,  
 18\_\_\_\_.

Signed \_\_\_\_\_

Rear-Admiral and Commander-in-Chief of Her  
 Britannic Majesty's Naval Force in \_\_\_\_\_

## FORM No. 2 (referred to in Sect. 124).

*Letter accompanying Declaration of Blockade.*

To His Excellency \_\_\_\_\_, Her Britannic Majesty's  
 Envoy Extraordinary<sup>1</sup> at \_\_\_\_\_.

<sup>1</sup> or Consul or  
 Charge  
 d'Affaires.

SIR,—I have the honour to send to your Excellency  
 the enclosed Declaration, and to request that it may be  
 forthwith duly notified to the Government of the \_\_\_\_\_,  
 of \_\_\_\_\_ and to the Foreign Ministers, Consuls,  
 Vice-Consuls, and Consular Agents residing in the same  
 kingdom.

Here insert the  
 name of the  
 State at the  
 Court of which  
 the Envoy  
 resides.

I am, your obedient Servant,

\_\_\_\_\_  
 Rear-Admiral and Commander-in-Chief of  
 Her Britannic Majesty's Naval Forces  
 in \_\_\_\_\_.

The \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_,  
 at \_\_\_\_\_

FORM No. 3 (referred to in Sect. 127).

*Warning of Blockade*

The\_\_\_\_\_ Vessel, the\_\_\_\_\_, has been this  
day visited by me, and warned that\_\_\_\_\_ is  
under Blockade.

Dated this\_\_\_\_\_ day of\_\_\_\_\_, 18\_\_\_\_\_

Latitude\_\_\_\_\_, longitude\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

Commanding Her Majesty's Ship\_\_\_\_\_

## FORM No. 4 (referred to in Sect. 241).

*Affidavit as to Ship-Papers on board at the time of Capture,  
and delivered up.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding  
the rank of \_\_\_\_\_ in Her Britannic Majesty's  
Navy, and belonging to Her Majesty's \_\_\_\_\_  
make oath as follows :

(1) I was present at the Capture of the above-named  
Vessel, the \_\_\_\_\_, whereof \_\_\_\_\_ was  
Master, by Her Majesty's said Ship, the \_\_\_\_\_, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_\_.

(2) The papers hereunto annexed, and marked No. 1  
to No. \_\_\_\_\_ inclusive, are all the Papers which were on  
board at the time of the capture of the said Vessel and  
were delivered up.

(3) The said Papers are now in the very same plight,  
save the numbering thereof, as when the same were  
delivered up.

A. B.

Sworn by the said A.B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_\_.

Before me, C.D., of \_\_\_\_\_.

Here let the  
person before  
whom the  
Affidavit is  
sworn insert  
his name, rank  
and authority.

FORM No. 5 (referred to in Sect. 242).

*Affidavit as to Ship-Papers thrown overboard or destroyed  
at the time of the Capture.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A.B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) I was present at the Capture of the above-named Vessel, the \_\_\_\_\_, whereof \_\_\_\_\_ was Master, by Her Majesty's said ship, the \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(2) *A few minutes before the Capture aforesaid, I saw two packets of Papers thrown from one of the port-holes of the said Vessel ; the Cutter was immediately lowered ; one of such packets sunk and was lost, but the Cutter's Crew succeeded in saving the other packet.*

(3) The Papers hereunto annexed, and marked No. 1 to No. \_\_\_\_\_ inclusive, are all the Papers so saved, and are now in the very same plight, save the numbering thereof, as when they were so saved.

A. B

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

Before me, C. D., of \_\_\_\_\_

Here let the person before whom the Affidavit is sworn insert his name, rank and authority

## FORM No. 6 (referred to in Sect. 243).

*Affidavit as to Ship-Papers found concealed at the time of the Capture.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) I was present at the Capture of the above-named Vessel, the \_\_\_\_\_, whereof \_\_\_\_\_ was Master, by Her Majesty's said Ship, the \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

(2) In searching the Vessel on the occasion of the said Capture, I found stowed away and concealed in \_\_\_\_\_ a packet of Papers.

(3) The Papers hereunto annexed, and marked No. 1 to No. \_\_\_\_\_ inclusive, are all the Papers so found, and are now in the very same plight, save the numbering thereof, as when they were so found.

A. B.

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Before me, C. D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank, and authority

## FORM No. 7 (referred to in Sect. 245).

*Certificate to be made by the Commander, as to Money and Valuables found on board the Prize, Copy of which must in all cases be delivered to the Master.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and commanding Her Majesty's Ship \_\_\_\_\_, do hereby certify that the following is a correct Account of all Moneys and Valuables found on board the above-named Vessel \_\_\_\_\_, detained by me, as Lawful Prize of War, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Here state the several articles, distinguishing whether they were voluntarily given up, or were found concealed, and where.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Commanding Her Majesty's Ship \_\_\_\_\_.

NOTE.—I do hereby declare that on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I delivered a Copy, signed by myself, of the above Certificate to the Master of the \_\_\_\_\_, and that \_\_\_\_\_

Here state whether or not the Master made any objection, and if he did, what the nature of the objection was.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Commanding Her Majesty's Ship \_\_\_\_\_.

## FORM No. 8 (referred to in Sect. 287).

*Affidavit by Prize Officer as to Removal of Crew from Prize  
by Commander.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned, A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, Capt. \_\_\_\_\_, the Commander of the said Ship, captured the said Vessel, the \_\_\_\_\_ in latitude \_\_\_\_\_ and longitude \_\_\_\_\_, and detained her as Lawful Prize of War.

(2) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the said Capt. \_\_\_\_\_, previous to sending the Prize in for Ajudication, removed from her \_\_\_\_\_

(3) The cause of the said removal was \_\_\_\_\_

A. B.

Sworn by the said A. B. at \_\_\_\_\_,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Before me, C. D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank, and authority.



## FORM No. 9 (referred to in Sect. 295).

*Affidavit by Prize Officer as to Sale of Cargo.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_ make oath as follows:

(1) On the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, Captain \_\_\_\_\_ the Commander of the said Ship \_\_\_\_\_, captured the said Vessel the \_\_\_\_\_, in latitude \_\_\_\_\_ and longitude \_\_\_\_\_, and detained her as Lawful Prize of War.

(2) On the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the said Captain \_\_\_\_\_ ordered a Survey to be made of the Cargo on board the Prize.

(3) The Paper marked A, and annexed to this Affidavit, is the Report made by the Officers appointed to make the said Survey.

(4) In consequence of this Report, Captain \_\_\_\_\_ ordered me to navigate the Prize in the first instance to the Port of \_\_\_\_\_, and there to sell the Cargo by Public Auction.

(5) On or about the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ I arrived in charge of the Cargo at the said Port of \_\_\_\_\_, and I forthwith directed the Cargo to be appraised by C. D. and E. F., of \_\_\_\_\_, being the most competent persons I could find for the purpose.

(6) Previous to making the Appraisement, the said C. D. and E. F. were sworn to be impartial, and the Paper marked B and annexed hereto is the Affidavit so sworn by them.

(7) The Paper marked C and annexed hereto is the Appraisement made by the said C. D. and E. F.

(8) On or about the \_\_\_\_\_ day of \_\_\_\_\_, I ordered a Sale to be made of the Cargo by Public Auction at \_\_\_\_\_. The Paper marked D and annexed hereto is the Advertisement of the said Auction in \_\_\_\_\_.

(9) On the \_\_\_\_\_ day of \_\_\_\_\_, the Sale as advertised took place. I was present thereat, and saw the Cargo sold.

(10) The Paper marked E and annexed hereto is the Account Sale of the said Cargo, delivered to me by the said \_\_\_\_\_ showing a net balance upon the sale of the said Cargo to the amount of £ \_\_\_\_\_ to \_\_\_\_\_.

(11) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I transmitted the said sum of £ \_\_\_\_\_ to \_\_\_\_\_.

A. B.

Here let the person before whom the Affidavit is sworn insert his name, rank and authority.

Sworn by the said A. B. at \_\_\_\_\_,  
on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_.

Before me, C. D., of \_\_\_\_\_.

## FORM No. 10 (referred to in Sect. 302).

*Affidavit by Prize Officer as to sending the Prize into a Neutral Port pending Adjudication.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_ make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, Captain \_\_\_\_\_, the Commander of the said Ship, captured the said Vessel, the \_\_\_\_\_, in latitude \_\_\_\_\_ and longitude \_\_\_\_\_, and detained her as lawful Prize of War.

(2) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the said Captain \_\_\_\_\_ ordered a Survey to be made of the Prize.

(3) The Paper marked A and annexed to this Affidavit is the Report of the Officers appointed to make the said Survey.

(4) In consequence of the said Report, Capt. \_\_\_\_\_ ordered me to navigate the Prize to the Port of \_\_\_\_\_

(5) In obedience to the said Order, I navigated the Prize to the said Port of \_\_\_\_\_, and arrived there on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, and forthwith delivered the Prize to

A. B.

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_,

Before me, C. D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank, and authority.

FORM No. 11 (referred to in Sect. 305).

*Inventory of the Stores, Furniture, and Cargo of the Prize,  
to be drawn up by the Prize Officer, and a Copy to be  
delivered to the Master.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, \_\_\_\_\_, holding the rank of \_\_\_\_\_  
in Her Britannic Majesty's Navy, and the Prize Officer in  
charge of the \_\_\_\_\_ Vessel \_\_\_\_\_, detained as  
lawful Prize of War on the \_\_\_\_\_ day of \_\_\_\_\_,  
18\_\_\_\_, by Her Majesty's Ship \_\_\_\_\_,  
Commander, do hereby certify that the following is a cor-  
rect Inventory of the Stores, Furniture, and Cargo of the  
said Vessel, so far as the said can be ascertained without  
disturbing the Stowage ; \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

NOTE.—I do hereby declare that on the \_\_\_\_\_ day of  
\_\_\_\_\_, 18\_\_\_\_, I delivered a Copy, signed by  
myself, of the above Inventory to the Master of the \_\_\_\_\_  
\_\_\_\_\_, and that \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Here state  
whether or  
not the  
Master made  
any objection,  
and, if he did,  
what the  
nature of the  
objection was.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

To be signed by the Prize Officer, adding his rank in  
the Royal Navy.

## FORM No. 12 (referred to in Sect. 307).

*Affidavit by Prize Officer as to Ship Papers delivered up  
subsequently to the Capture.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I was appointed Prize Officer in charge of the said Vessel, the \_\_\_\_\_, for the purpose of taking her to the Port of \_\_\_\_\_ for adjudication.

(2) In the course of the said voyage, namely, on the \_\_\_\_\_ day of \_\_\_\_\_, the Master of the said Vessel delivered up to me the Papers hereunto annexed, and marked No. 1 to No. \_\_\_\_\_ inclusive.

(3) The said Papers are all the Papers so delivered up, and are now in the very same plight, save the numbering thereof, as when they were so delivered up.

A. B.

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Before me, C. D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank, and authority.

## FORM No. 13 (referred to in Sect. 307).

*Affidavit by Prize Officer as to Ship Papers thrown over-board subsequently to the Capture.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, I was appointed Prize Officer in charge of the said Vessel, the \_\_\_\_\_, for the purpose of taking her to the Port of \_\_\_\_\_ for adjudication.

(2) In the course of the said voyage, namely, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I saw two packets of Papers thrown from one of the port-holes of the said Vessel ; the Cutter was immediately lowered ; one such packet sunk and was lost, but the Cutter's Crew succeeded in saving the other packet.

(3) The Papers hereunto annexed, and marked No. 1 to No. \_\_\_\_\_ inclusive, are all the Papers so saved, and are now in the very same plight, save the numbering thereof, as when they were so saved.

A. B.

Sworn by the said A. B. at \_\_\_\_\_,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_\_.

Before me, C. D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank and authority.

## FORM No. 14 (referred to in Sect. 307).

*Affidavit by Prize Officer as to concealed Ship Papers  
found subsequently to the Capture.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, I was appointed Prize Officer in charge of the said Vessel, the \_\_\_\_\_, for the purpose of taking her to the Port of \_\_\_\_\_ for adjudication.

(2) In the course of the said voyage, namely, on the \_\_\_\_\_ day of \_\_\_\_\_, I found stowed away and concealed in \_\_\_\_\_ a packet of Papers.

(3) The Papers hereunto annexed, and marked No. 1 to No. \_\_\_\_\_ inclusive, are all the Papers so found, and are now in the very same plight, save the numbering thereof, as when they were so found.

A. B.

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Before me, C.D., of \_\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank and authority.

## FORM No 15 (referred to in Sect. 314).

*Affidavit by Prize Officer as to Removal of the Master, or Crew, or Cargo, from on board the Prize.*

THE \_\_\_\_\_, \_\_\_\_\_ MASTER.

I, the undersigned A. B. \_\_\_\_\_, holding the rank of \_\_\_\_\_ in Her Britannic Majesty's Navy, and belonging to Her Majesty's Ship \_\_\_\_\_, make oath as follows :

(1) On the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, I was appointed Prize Officer in charge of the said Vessel, the \_\_\_\_\_, for the purpose of taking her to the Port of \_\_\_\_\_ for adjudication.

(2) In the course of the said voyage, namely, on the \_\_\_\_\_ day of \_\_\_\_\_, I removed from the said Vessel the following, namely : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Here state who or what was removed, and the place of removal.

(3) The cause of the said removal was \_\_\_\_\_  
\_\_\_\_\_

A. B.

Sworn by the said A. B. at \_\_\_\_\_,

on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_.

Here let the person before whom the Affidavit is sworn insert his name, rank, and authority.

Before me, C. D., of \_\_\_\_\_.

## FORM No. 16 (referred to in Sect. 324).

*Standing Interrogatories administered to persons found on board Captured Ships, and examined as witnesses in preparatory, during the late Russian war.<sup>1</sup>*

Standing Interrogatories to be administered on behalf of our Sovereign Lady Victoria, by the grace of God of Great Britain and Ireland Queen, Defender of the Faith. To all Commanders, Masters, Officers, Mariners, and other persons found on board any Ship or Vessels which hath been or shall be seized or taken as prize by any of Her Majesty's Ships or Vessels of War, concerning such captured Ships or Vessels, or any goods, wares, or merchandise on board the same, examined as Witnesses in preparatory during the present hostilities.

Let each witness be asked the following questions, and let his answer to each question be written down distinctly and separately.

1. What are your true names? Where were you born? In what place or places have you lived during the seven years last past? Where do you now live, and how long have you lived in that place? To what prince, state, or power are you now, or have you at any previous time, and when, been a subject? or said or represented that you were a subject? Have you ever, and when, taken any and what oath of allegiance, and to whom? or obtained, or received, or applied for any and what certificate of your being a citizen or subject of, or entitled to the protection of, any and what state or country? Of what cities or towns have you ever been admitted a burgher or freeman? And when and in what manner were you so admitted? How long have you resided there since you were so admitted? Where have you since resided? What did you pay for your aforesaid admission? Are you married? If yea, where do your wife and family reside?

2. Were you present at the time of the taking and seizing of the ship or her lading, or any of the goods or merchandises concerning which you are now examined; Had the ship concerning which you are now examined any and what commission or letters of marque? If she had, what was that commission or letter of marque, and by whom, when, and where was it granted?

3. In what port or place, by latitude and longitude, bearing and distance, and in what year, month, and day were the ship and goods, concerning which you are now examined, taken and seized? Upon what pretence, and for what reasons, were they, or any, and what part thereof, so seized? Into what port or place were they

<sup>1</sup> These Interrogatories having been framed many years ago, are not in every respect well adapted for use at the present day. In the event of Great Britain being engaged in a Naval war, it is probable that a new set of Interrogatories will be officially issued.



carried? Under what colours did the said ship sail first on her voyage? What colours had she hoisted or flying when seized or captured? What other colours had she on board, and for what reason had she such other colours? Did she ever, and when, hoist the same, or any, and which of them? Was any resistance made at the time the said ship was taken? and if yea, what sort of resistance, and by whom? Were any and what description of fire-arms, or cannon, or muskets, or any other and what kind of weapons used in such resistance? By whom, or by what ship or ships were you taken? Was such vessel a ship of war, or a vessel acting without any commission, as you believe? Were any other, and if yea, what, ships in sight at the time of the capture?

4. What is the name of the master or commander of the captured ship concerning which you are now examined? How long have you known the said master? Who appointed him to command the said ship? Where and when did he first take possession of her, and at what time? and who by name delivered the possession of her to him? Where is such person? and where is the master now? Where is the fixed place of abode of each of them? If the witness replies that either has no fixed place of abode, then ask him where was the last place of abode of such person? And where did he generally reside? How long has he lived there? Where was he born, and of what state is he now a subject? Is he married? If yea, where do his wife and family reside?

5. Of what tonnage or burthen is the ship concerning which you are now examined? What was the number of mariners on board her when you joined her? And at the time of her capture or seizure? And of what country was each of the said mariners? Did all such mariners come on board at the same port? And if nay, at what ports did they severally come on board? Who shipped or hired each of them, and when and where were they so shipped or hired? and for, or upon, what voyage?

6. Had you, or any, and which of the officers or mariners belonging to the ship concerning which you are now examined any, and if yea, what part, share, or interest in the said ship or her lading? Set forth who among the said officers or mariners are so interested, and to what extent you or they are so interested? Did you belong to the ship at the time she was seized and taken? If yea, in what capacity? How long have you known the said ship? When and where did you first see her? Where was she built?

7. What is the name of the said ship? How long has she been so called? Do you know of any other name or names by which she has ever and when been called? If yea, set forth such names, and when, and why, and for how long she was called by each or any of such names? Had she any passport or sea-brief on board? and if yea, from whom?

8. To what ports and places did she sail during the said voyage before she was taken? Where did the voyage on which she was taken begin? and where was it to have ended? Set forth the nature of every voyage the said ship has sailed upon, and the quality of every cargo the said ship has carried from the time you have

known her up to the time of her capture, and state at what port each of such cargoes has been delivered. From what ports and at what time, particularly from the last clearing port, did the said ship sail previously to the capture? Under whose direction and management has she usually been with respect to her employment or trade? With whom do you correspond on the concerns of the vessel or her cargo?

9. What lading did the said ship carry at the time of her setting sail in her last voyage, and what particular sort of lading and goods had she on board at the time she was taken? In what year, month, and place was the same put on board her? Set forth the different species of the lading, specifying the quantity of each species.

10. Who were the owners of the ship concerning which you are now examined, at the time when she was seized? How do you know that such persons were the owners at such time? Of what nation or country are such owners by birth? Where do they reside? and where do their wives and families reside? How long have they resided there? Where did they reside before, to the best of your knowledge? Of what princes, states, or powers are they subjects or citizens?

11. Was any bill of sale, or any and what similar document of transfer, made?—and if yea, by whom?—to the aforesaid owners of the said ship? If any was made, in what month, year, where and before what witnesses was such bill of sale or similar document of transfer made? Where did you last see it, and what has become of it? Was any, and what, engagement entered into concerning the purchase further than what appears upon the bill of sale? If yea, was it verbal, or in writing? If in writing, where did you last see such writing, and what has become of it?

12. Was the said lading put on board in one port, and at one time, or in several ports, and at several times; and in what ports by name, and at what times particularly? Set forth what quantities of each sort of goods were shipped at each port.

13. What are the names of the respective laders, or owners, or consignees, of the said goods? What countrymen are they? Where do they now live and carry on their business or trade? How long have they resided there? Where did they reside before, to the best of your knowledge? And where were the said goods to be delivered, and for whose real account, risk, or benefit? Have any of the said consignees or laders any, and what, interest, in the said goods? If yea, whereon do you found your belief that they have such interest? Can you take upon yourself to swear that you believe that at the time of the lading the cargo, and at the present time, and also if the said goods shall be restored and unladen at the destined ports, the goods did, do, and will belong to the same persons, and to none others?

14. How many bills of lading were signed for the goods seized on board the said ship? Were any of those bills of lading false or colourable, or were any bills of lading signed which were different in any respect from those which were on board the ship at the time she was taken? What were the contents of such other bills of lading, and what became of them?

15. Are there any where in Great Britain, and where particularly, any bills of lading, invoices, letters, or instruments relative to the ship and goods concerning which you are now examined? If yea, set forth where they are, and in whose possession, and what is the purport thereof, and when they were brought or sent there.

16. Was there any charter-party signed for the voyage in which the ship concerning which you are now examined was seized and taken? What became thereof? When, where, and between whom was such charter-party made? What were the contents of it?

17. What papers, charter-parties, bills of lading, invoices, letters or other writings were on board the ship at the time she took her departure from the last clearing port, before she was taken as prize? Were any, and if yea, which of them burned, torn, thrown overboard, destroyed, altered, or cancelled, or concealed, or attempted to be concealed, and when, and by whom, and in whose presence?

18. Has the ship concerning which you are now examined ever been, and if yea, when, seized as prize, and condemned as such? If yea, set forth by whom, when, and where, she was seized and into what port she was carried, and by whom, and by what authority, and on what account she was so condemned.

19. Have you sustained any loss, and what, by the seizing and taking of the ship or goods concerning which you are examined? If yea, how do you compute such loss? Have you hitherto received any indemnity, satisfaction, or promise of satisfaction, for any part of the loss or damage which you have sustained, or may sustain, by this capture and detention? And if yea, when, and from whom?

20. Are the said ship and goods, or is any, and what part thereof, insured? If yea, for what voyage, and against what risks was such insurance made? And at what premium? And when and by what persons and in what country?

21. In case you had arrived at your destined port, would your cargo, or any part thereof, on being unladen, have immediately become the property of the consignees or any other person, and whom? Or was the lader to take the chance of the market for the sale of his goods?

22. State in respect to the lading of the ship concerning which you are now examined and each part thereof, in what country the same was grown and produced and manufactured respectively.

23. When the said cargo was originally put on board, was all the said cargo, or any, and what part thereof, and when taken from the shore and quay, or removed or transhipped from one boat, barque, vessel, or ship to another? From what, and to what, shore, quay, boat, barque, vessel, or ship, and when and where was the same so taken, removed, or transhipped?

24. Are there in any country besides Great Britain, and where particularly, or on board any and what ship or vessel, other than the ship concerning which you are now examined, any letters, instruments, papers, or documents relative to the said ship or goods

as you know, believe, or have heard? And of what nature are such letters, instruments, papers, or documents? And what are their contents, as you know, believe, or have heard? In whose possession are they, and do they differ from any of the papers on board? And if yea, in what particular?

25. Were any papers delivered out of the said ship or vessel, and carried away in any manner whatsoever? And if yea, when, and by whom, and to whom? And in whose custody, possession, or power do you believe the same now to be?

26. Was bulk broken during the voyage in which you were taken, or since the said ship was captured? And if yea, when where, and by whom? By whose orders, for what purpose, and in what manner?

27. Were there any passengers on board the aforesaid ship during any, and what, part of the voyage on which she was captured? If yea, how many, and who were such passengers by name? Of what nation, rank, profession, or occupation was each of them? Did any, and which of them, hold any, and what, commission? And from whom and for what purpose? Were any and which, of such passengers secreted at the time of the capture, and why? At what place, and when, was each of them taken on board? To what place was each of them destined, or said or supposed to be destined, and upon what business? or for what real purpose or design was he destined there? Did they pay, or agree to pay, anything, and what, for their passage, and to whom? Had any, and which, of such passengers any, and what, property, or concern, or authority, directly or indirectly, regarding the ship or cargo? Were there at any time during the voyage in which the said ship was captured any officers, soldiers, or mariners secreted on board her? And if yea, for what reason were they so secreted? Were any of Her Britannic Majesty's subjects on board, or secreted or confined during the said voyage or at the time of the capture? If yea, how long had they been so secreted or confined, and for what reason?

28. Were, and are, all the passports, sea-briefs, charter-parties, bills of sale or lading, invoices, and papers found on board the said ship, and referring to the ownership thereof or to the cargo, true and fair, or are any, and which of them, false and colourable? Do you know of any matter or circumstance to affect their credit? By and from whom were the passports and sea-briefs obtained? Were they obtained for this ship only, and upon the oath or affirmation of the persons therein described? or were they delivered to, or on behalf of, the person or persons who appear to have been sworn, or to have affirmed thereto, without their having ever, in fact, made any such oath or affirmation? How long a time were they to last? Was any duty or fee payable and paid for the same? And is there any duty or fee payable and paid for the same? And is there any duty or fee to be paid on the renewal thereof? Have such passports been renewed, and how often, and has the duty or fee been paid for such renewal? Was the ship in a port in the country where the passports and sea-briefs were granted? And if not, where was the ship at the time? Had any person on board any let-pass

or letters of safe conduct? If yea, from whom, and for what business?

29. If it should appear that there are in any place or country besides Great Britain any bills of lading, invoices, instruments or papers relative to the ship concerning which the witness is now examined, ask him, how did the same come to be in such place or country? Were you ever in such place or country? and if yea, when, and on what account? In whose possession are such instruments or papers? Do they differ? and if yea, in what particulars, from any of the papers on board or in Great Britain, or from any other papers referring to the same ship in any other place? Have you written or signed any letters or papers concerning the said ship or her cargo? If yea, set forth their purport. To whom were such papers written and sent, and what has become of them?

30. Towards what port or place was the ship steering her course at the time of her being first pursued and taken? Was her course altered upon or after the appearance of the vessel by whom she was taken, and how altered, and with what object or purpose? Was her course at all times, when the weather would permit, directed to the place or port for which she appears to have been destined by the ship's papers? Was the ship before, or at the time of her capture, sailing beyond or wide of the said place or port to which she was so destined by the said ship's papers? At what distance was she therefrom? Was her course altered at any and what time, and to or towards any, and what, other port or place, and for what reason? Did she make any, and what, attempt to escape the said ship by which she was captured? When did she first see that ship, and at what distance? Did she thereupon make or shorten sail, or slacken or increase her speed, and how? When and by what means was she stopped, brought to, or boarded?

31. By whom and to whom has the said ship ever been sold and transferred, and how often and at what time and place, and for what sum or consideration? Has such sum or consideration been paid or satisfied? Was such sum a fair equivalent for her? If such sum has not been paid, what security or securities have been given for the payment of the same and by whom? And where do the persons who have given such security now live? Do you know, or believe in your conscience, such sale or transfer to have been truly made, and not for the purpose of covering or concealing the real property or interest in the ship? Do you verily believe, that if the ship be restored, she will belong to the persons now asserted to be her owners, and no others? Are there any, and if yea, what, private agreements for the return of the ship to her former owners, at the conclusion of the war, or at any and what other period?

32. What guns were mounted on board the said ship, and of what calibre were they? and what arms and ammunition were there belonging to her? Why was she so armed? Were there on board any other guns, mortars, howitzers, balls, shells, rockets, hand-grenades, rifles, muskets, carabines, pistols, fuzees, halberds, spon-  
toons, swords, bayonets, locks for muskets, flints, ramrods, belts,

cartridges, cartridge-boxes, pouches, gunpowder, percussion-caps, saltpetre, nitre, camp equipage, military tools, uniforms, soldiers' clothing or accoutrements, or any sort of warlike and naval stores, or steam-engines or machinery, or parts thereof? Were any of such warlike, or naval, stores or things thrown overboard, at or before the time of the capture? And were, and are, any such warlike and other stores before described concealed on board under the names of merchandise, or any other colourable appellation, in the ship's papers? If yea, what are the marks of the casks, bales, and packages in which the same are concealed? Were any of the before-named articles, and which, intended for the use of any fortress or garrison in the port or place to which such ship was bound? If nay, to whose use, and for what place, were the same, or any and which of them, really destined or intended? Do you know, or have you heard of, any ordinance, notice, or law, existing in the kingdom or state from which the voyage began, or where they were shipped, forbidding the exportation of the same by private persons? Were such warlike or naval stores put on board by any, and what public authority? When, and where, and by whom, were they put on board?

33. What is the whole which you know or believe regarding the real and true property and destination, at the time of the capture of the ship and cargo, concerning which you are now examined?

34. Did the said ship on the voyage in which she was captured, or during any and what former voyage, sail under the convoy of any and what ship or ships of war, and other armed vessel or vessels? And if yea, for what reason did she sail under such convoy? Of what force was or were such convoying ship or ships? And to what state did they belong? What instructions or directions did you receive on each and every such voyage, when under convoy, respecting your sailing or keeping in company with such armed or convoying ship or ships? and from whom did you receive such instructions or directions? And from whom did you receive any instructions for resisting, or endeavouring to avoid, or escape from capture; or for destroying, or concealing, or refusing to deliver up your ship's documents or papers, or any and what other papers that might be, or had been put on board your vessel? If you had any such instructions, state their tenor and all particulars relating thereto. Ask the witness if he is in possession of such instructions or copies thereof? and if he be, direct him to leave the same with the examiner, to be annexed to his deposition.

35. Did the said ship, during the voyage in which she was captured, or on or during any and what former voyage, sail to, or attempt to enter or leave, any port, place, river, or coast which was under blockade by the arms or forces of any, and which of the belligerent powers? If yea, when, where, and how did you first hear of such port, place, river, or coast being so blockaded? And were you at any, and what time? And if yea, by whom and where warned not to proceed to, or not to attempt to enter, or to leave such blockaded port, place, river, or coast? What conversation or other communication passed between you and your informant in

respect thereto? And what course did you pursue upon, and after such warning?

36. What instructions did you or did any, and what other, person on board receive, and from whom, and when, with respect to any and what blockade which there was, or might thereafter be, established? Or will you swear that you never received and do not know or believe that any other person on board received any instructions whatsoever in respect to any blockade which was or might be established of any port, place, or coast?

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# APPENDIX.

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- No.
- I. Declaration as to Neutrals and Letters of Marque, 28th March, 1854.
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### I.

#### *Declaration of Her Majesty, dated March 28, 1854, with reference to Neutrals and Letters of Marque.\**

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an Ally, is desirous of rendering the war as little onerous as possible to the Powers with whom she remains at peace.

To preserve the commerce of Neutrals from all unnecessary obstruction, Her Majesty is willing for the present to waive a part of the belligerent rights appertaining to her by the Law of Nations.

It is impossible for Her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing Neutrals from bearing the Enemy's despatches, and she must maintain the right of a belligerent to prevent Neutrals from breaking any effective blockade which may be established with an adequate force against the Enemy's forts, harbours, or coasts.

But Her Majesty will waive the right of seizing Enemy's property laden on board a neutral vessel, unless it be contraband of war.

It is not Her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board Enemy's ships; and Her Majesty further declares, that being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organised forces of the country, it is not her present intention to issue Letters of Marque for the commissioning of Privateers.

Westminster, March 28, 1854.

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\* The above Declaration, and the Order in Council which follows it, ceased to be in force upon the close of the Russian War. They are here inserted only as indicating the probable policy of Great Britain in future wars.

## II.

*Order in Council of April 15, 1854, in furtherance of Her Majesty's Declaration of the 28th March, 1854, respecting the Trade of Neutrals and British subjects.*

AT THE COURT AT WINDSOR,

The 15th day of April 1854,

PRESENT—

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

WHEREAS Her Majesty was graciously pleased, on the twenty-eighth day of March last, to issue Her Royal Declaration in the following terms :—

“Her Majesty the Queen of the United Kingdom; of Great Britain and Ireland, having been compelled to take up arms in support of an Ally, is desirous of rendering the war as little onerous as possible to the Powers with whom she remains at peace.

“To preserve the commerce of Neutrals from all unnecessary obstruction, Her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the Law of Nations.

“It is impossible for Her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing Neutrals from bearing the Enemy's despatches, and she must maintain the right of a belligerent to prevent Neutrals from breaking any effective blockade which may be established with an adequate force against the Enemy's forts, harbours, or coasts.

“But her Majesty will waive the right of seizing Enemy's property laden on board a neutral vessel unless it be contraband of war.

“It is not Her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board Enemy's ships; and Her Majesty further declares, that being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organised forces of the country, it is not her present intention to issue Letters of Marque for the commissioning of Privateers.”

Now it is this day ordered, by and with the advice of Her Privy Council, that all vessels under a neutral or friendly flag, being neutral or friendly property, shall be permitted to import into any port or place in Her Majesty's dominions all goods and merchandise whatsoever, to whomsoever the same may belong; and to export from any port or place in Her Majesty's dominions to any port not blockaded any cargo or goods, not being contraband of war, or not requiring a special permission, to whomsoever the same may belong.

And Her Majesty is further pleased, by and with the advice of Her Privy Council, to order, and it is hereby further ordered, that, save and except only as aforesaid, all the subjects of Her Majesty and the subjects or citizens of any neutral or friendly State shall and may, during and notwithstanding the present hostilities with Russia, freely trade with all ports and places wheresoever situate which shall not be in a state of blockade, save and except that no British vessel shall under any circumstances whatsoever, either under or by virtue of this Order or otherwise, be permitted or empowered to enter or communicate with any port or place which shall belong to or be in possession or occupation of Her Majesty's Enemies.

And the Right Honourable the Lords Commissioners of Her Majesty's Treasury, the Lords Commissioners of the Admiralty, the Lord Warden of the Cinque Ports, and Her Majesty's Principal Secretary of State for War and the Colonies, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

### III.

*Convention between Her Majesty and the Emperor of the French, relative to joint Captures. Signed at London, May 10, 1854.\**

[Ratifications exchanged in London, May 20, 1854.]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of the French, being desirous to determine the jurisdiction to which the adjudication of joint Captures which may be made during the course of the present war by the naval forces of the two nations, shall belong, or of Captures which may be made of merchant vessels belonging to subjects of either of the two countries by the cruisers of the other, and being desirous to regulate at the same time the mode of distribution of the proceeds of joint Captures, have named as their Plenipotentiaries for that purpose, that is to say :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable George William Frederick, Earl of Clarendon, Baron Hyde of Hindon, a Peer of the United Kingdom, a Member of Her Britannic Majesty's most honourable Privy Council, Knight of the most noble Order of the Garter, Knight Grand Cross of the most honourable Order of the Bath, Her Britannic Majesty's Principal Secretary of State for Foreign Affairs ;

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\* This Convention ceased to be in force upon the close of the Russian War. It is here inserted only as exhibiting the kind of arrangement likely to be made between Great Britain and her Maritime Allies in the event of a war.

And His Majesty the Emperor of the French, the Sieur Alexander Colonna, Count Walewski, Grand Officer of the Imperial Order of the Legion of Honour, Grand Cross of the Order of St. Januarius of the Two Sicilies, Grand Cross of the Order of Danebrog of Denmark, Grand Cross of the Order of Merit of St. Joseph of Tuscany, &c., &c., his Ambassador to Her Britannic Majesty ;

Who, after having exchanged their full powers, found in due form, have agreed upon the following Articles :

ART. I. When a joint capture shall be made by the naval forces of the two countries, the adjudication thereof shall belong to the jurisdiction of the country whose flag shall have been borne by the officer having the superior command in the action.

ART. II. When a capture shall be made by a cruiser of either of the two allied nations in the presence and in the sight of a cruiser of the other, such cruiser having thus contributed to the intimidation of the enemy, and the encouragement of the captor, the adjudication thereof shall belong to the jurisdiction of the actual captor.

ART. III. In case of the capture of a merchant vessel of one of the two countries, the adjudication of such capture shall always belong to the jurisdiction of the country of the captured vessel : the cargo shall be dealt with, as to the jurisdiction, in the same manner as the vessel.

ART. IV. In case of condemnation under the circumstances described in the preceding Articles :

1. If the capture shall have been made by vessels of the two nations whilst acting in conjunction, the net proceeds of the prize, after deducting the necessary expenses, shall be divided into as many shares as there were men on board the capturing vessels, without reference to rank, and the shares belonging to the men on board the vessels of the Ally shall be paid and delivered to such person as may be duly authorised on behalf of the allied Government to receive the same ; and the distribution of the amount belonging to each vessel shall be made by each Government according to the laws and regulations of the country.

2. If the capture shall have been made by cruisers of either of the two allied nations in the presence and in sight of a cruiser of the other, the division, the payment, and the distribution of the net proceeds of the prize, after deducting the necessary expenses, shall likewise be made in the manner above mentioned.

3. If a capture, made by a cruiser of one of the two countries, shall have been adjudicated by the Courts of the other, the net proceeds of the prize, after deducting the necessary expenses, shall be made over in the same manner to the Government of the captor, to be distributed according to its laws and regulations.

ART. V. The commanders of the vessels of war of their Majesties shall, with regard to the sending in and delivering up of prizes, conform to the instructions annexed to the present Convention, and which the two Governments reserve to themselves to modify by common consent, if it should become necessary.

ART. VI. When, in execution of the present Convention, the valuation of a captured vessel of war shall be in question, the calculation shall be according to the real value of the same; and the allied Government shall be entitled to delegate one or more competent officers to concur in the valuation. In case of disagreement, it shall be decided by lot which officer shall have the casting voice.

ART. VII. The crews of the captured vessels shall be dealt with according to the laws and regulations of the country to which the present Convention attributes the adjudication of the prize.

ART. VIII. The present Convention shall be ratified, and the ratifications shall be exchanged in London within ten days from this date, or sooner if possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention, and have affixed thereto the seals of their arms.

Done at London, the tenth day of the month of May, in the year of our Lord One thousand eight hundred and fifty-four.

L. S.

CLARENDON.

A. WALEWSKI.

#### IV.

*Annex to the Convention between Great Britain and France,  
signed at London, May 10, 1854.*

*Instructions to the Commanders of Ships of War belonging to Her  
Majesty the Queen of the United Kingdom of Great Britain  
and Ireland, and to His Majesty the Emperor of the French.*

You will find enclosed a copy of a Convention which was signed on the 10th instant between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French, regulating the jurisdiction to which shall belong the adjudication of the joint captures made by the allied naval forces, or of the captures of merchant vessels belonging to the subjects of either of the two countries which shall be made by the cruisers of the other, as likewise the mode of distribution of the proceeds of such joint captures.

In order to insure the execution of this Convention, you will conform yourself to the following instructions :

ART. I. Whenever, in consequence of a joint action, you are required to draw up the report or *procès-verbal* of a capture, you will take care to specify exactly the names of the ships of war present

during the action, as well as the names of their commanding officers, and, as far as possible, the number of men embarked on board those ships at the commencement of the action, without distinction of rank.

You will deliver a copy of that report or *procès-verbal* to the officer of the allied Power who shall have had the superior command during the action, and you will conform yourself to the instructions of that officer as far as relates to the measures to be taken for the conduct and the adjudication of the joint captures so made under his command.

If the action has been commanded by an officer of your nation, you will conform yourself to the regulations of your own country, and you will confine yourself to handing over to the highest officer in rank of the allied Power who was present during the action, a certified copy of the report or of the *procès-verbal* which you shall have drawn up.

ART. II. When you shall have effected a capture in presence of, and in sight of, an allied ship of war, you will mention exactly, in the report which you will draw up when the capture is a ship of war, and in the report or *procès-verbal* of the capture when the prize is a merchant vessel, the number of men on board your ship at the commencement of the action, without distinction of rank, as well as the name of the allied ship of war which happened to be in sight, and, if possible, the number of men embarked on board that ship, likewise without distinction of rank. You will deliver a certified copy of your report or *procès-verbal* to the commander of that ship.

ART. III. Whenever in the case of a violation of a blockade, of the transport of contraband articles, of land or sea troops of the enemy, or of official despatches from or for the enemy, you find yourself under the necessity of stopping and seizing a merchant vessel of the allied nation, you will take care to :

1. Draw up a report (or *procès-verbal*), stating the place, the date, and the motive of the arrest, the name of the vessel, that of the captain, the number of the crew ; and containing besides an exact description of the state of the vessel, and of her cargo.

2. Collect and place in a sealed packet, after having made an inventory of them, all the ship's papers, such as registers, passports, charter-parties, bills of lading, invoices, and other documents calculated to prove the nature and the ownership of the vessel and of her cargo.

3. Place seals upon the hatches.

4. Place on board an officer, with such number of men as you may deem advisable, to take charge of the vessel, and to insure its safe conduct.

5. Send the vessel to the nearest port belonging to the Power whose flag it carried.

6. Deliver up the vessel to the authorities of the port to which you shall have taken her, together with a duplicate of the report (or *procès-verbal*), and of the inventory above mentioned, and with the sealed packet containing the ship's papers.

ART. IV. The officer who conducts the captured vessel will procure a receipt proving his having delivered up the vessel, as well as his having delivered the sealed packet, and the duplicate of the report (or *procès-verbal*) and of the inventory above mentioned.

ART. V. In case of distress, if the captured vessel is not in a fit state to continue its voyage, the officer charged to conduct to a port of the allied Power a prize made on the merchant service of that Power, may enter a port of his own country or a neutral port ; and he will deliver his prize to the local authority, if he enters a port of his own country, and to the Consul of the allied nation if he enters a neutral port, without prejudice to the ulterior measures to be taken for the adjudication of the prize. He will take care, in that case, that the report or *procès-verbal*, and the inventory which he shall have drawn up, as well as the sealed packet containing the ship's papers, be sent exactly to the proper court of adjudication.

ART. VI. You are not to consider as prisoners of war, and you will give free permission to land, to all women, children, and persons not belonging to the military or maritime profession who shall be found on board the captured vessels.

With this exception, and those which your own security may suggest, you will not permit any person to be removed from on board the vessel ; and in all cases you will retain the master, super-cargo, and others whose evidence may be essential to the adjudication of the prize.

You will treat as prisoners of war all persons whatever who may be found on board the Enemy's vessels, with the exceptions above mentioned in par. 1.

You will place no other restriction on the liberty of allied or neutral subjects found on board allied or neutral vessels, than such as may be necessary for the security of the vessel.

With respect to your own countrymen, you will treat them according to the general instructions you have received, and you will in no case deliver them up to a foreign jurisdiction.

The persons who may have been exceptionally removed from the captured vessels shall afterwards be sent back to their own country, if they belong to the allied nation ; if they are neutrals or enemies they shall be treated as if they had been found on board vessels captured by you separately.

L. S.

CLARENDON.

A. WALEWSKI.

## V.

## THE DECLARATION OF PARIS, APRIL 16, 1856.

*Declaration respecting Maritime Law. signed by the Plenipotentiaries of Great Britain, Austria, France, Prussia, Russia, Sardinia, and Turkey, assembled in Congress at Paris, April 16, 1856.*

## (TRANSLATION.)

The Plenipotentiaries who signed the Treaty of Paris of the thirtieth of March, one thousand eight hundred and fifty-six, assembled in Conference,—

## Considering :

That maritime law, in time of war, has long been the subject of deplorable disputes ;

That the uncertainty of the law and of the duties in such a matter gives rise to differences of opinion between neutrals and belligerents which may occasion serious difficulties, and even conflicts ;

That it is consequently advantageous to establish a uniform doctrine on so important a point ;

That the Plenipotentiaries assembled in Congress at Paris cannot better respond to the intentions by which their Governments are animated, than by seeking to introduce into international relations fixed principles in this respect ;

The above-mentioned Plenipotentiaries, being duly authorised, resolved to concert among themselves as to the means of attaining this object ; and, having come to an agreement, have adopted the following solemn Declaration :—

1. Privateering is, and remains, abolished ;
2. The neutral flag covers enemy's goods, with the exception of contraband of war ;
3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag ;
4. Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.

The Governments of the undersigned Plenipotentiaries engage to bring the present Declaration to the knowledge of the States which have not taken part in the Congress of Paris, and to invite them to accede to it.

Convinced that the maxims which they now proclaim cannot but be received with gratitude by the whole world, the undersigned Plenipotentiaries doubt not that the efforts of their Governments to obtain the general adoption thereof will be crowned with full success.



The present Declaration is not and shall not be binding, except between those Powers who have acceded, or shall accede, to it.

Done at Paris, the sixteenth of April, one thousand eight hundred and fifty-six.

(Signed) BUOL-SCHAUENSTEIN.  
HUBNER.  
WALEWSKI.  
BOURQUENEY.  
CLARENDON.  
COWLEY.  
MANTEUFFEL.  
HATZFELDT.  
ORLOFF.  
BRUNNOW.  
CAVOUR.  
DE VILLAMARINA.  
AALI.  
MEHEMMED DJEMIL.

Protocol No. 24.—Sitting of April 16, 1856.

(TRANSLATION).

On the proposition of Count Walewski, and recognising that it is for the general interest to maintain the indivisibility of the four principles mentioned in the Declaration signed this day, the Plenipotentiaries agree that the Powers which shall have signed it, or which shall have acceded to it, cannot hereafter enter into any arrangement in regard to the application of the right of neutrals in time of war, which does not, at the same time, rest on the four principles which are the object of the said Declaration.

Upon an observation made by the Plenipotentiaries of Russia, the Congress admits that, as the present resolution cannot have any retroactive effect, it cannot invalidate antecedent Conventions.

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## VI.

*An Act for regulating Naval Prize of War.*

27 &amp; 28 VIC. cap 25, 23rd June, 1864.

WHEREAS it is expedient to enact permanently, with amendments, such Provisions concerning Naval Prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a War :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

*Preliminary.*

Short Title.  
Interpretation  
of Terms.

1. This Act may be cited as the Naval Prize Act, 1864.

2. In this Act—

The term “The Lords of the Admiralty” means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral.

The term “The High Court of Admiralty” means the High Court of Admiralty of England :\*

The term “Any of Her Majesty's Ships of War” includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service :

The term “Officers and Crew” includes Flag Officers, Commanders, and other Officers, Engineers, Seamen, Marines, Soldiers, and others on board any of Her Majesty's ships of war :

The term “Ship” includes Vessel and Boat, with the Tackle, Furniture, and Apparel of the Ship, Vessel, or Boat :

The term “Ship Papers” includes all Books, Passes, Sea Briefs, Charter Parties, Bills of Lading, Cockets, Letters, and other Documents and Writings delivered up or found on board a captured ship :

The term “Goods” includes all such things as are by the course of Admiralty and law of nations the subject of adjudication as Prize (other than Ships).

## I.—PRIZE COURTS.

High Court  
of Admiralty  
and other  
Courts to be  
Prize Courts  
for purposes  
of Act.

3. The High Court of Admiralty, and every Court of Admiralty or of Vice-Admiralty, or other Court exercising Admiralty jurisdiction in Her Majesty's dominions, for the time being authorised to take cognisance of and judicially proceed in matters of Prize, shall be a Prize Court within the meaning of this Act.

\* It must be observed that the term “High Court of Admiralty” in this Act must now be interpreted by the provisions of the Judicature Act, 1873, by which the powers of that Court are transferred to the High Court of Justice.

Every such Court, other than the High Court of Admiralty, is comprised in the term "Vice-Admiralty Prize Court," when hereafter used in this Act.

*High Court of Admiralty.*

4. The High Court of Admiralty shall have jurisdiction throughout Her Majesty's dominions as a Prize Court. Jurisdiction of High Court of Admiralty.

The High Court of Admiralty as a Prize Court shall have power to enforce any order or decree of a Vice-Admiralty Prize Court, and any order or decree of the Judicial Committee of the Privy Council in a Prize Appeal.

*Appeal; Judicial Committee.†*

5. An Appeal shall lie to Her Majesty in Council from any order or decree of a Prize Court, as of right in case of a final decree, and in other cases with the leave of the Court making the order or decree. Appeal to Queen in Council, in what Cases.

Every Appeal shall be made in such manner and form, and subject to such regulations (including regulations as to fees, costs, charges, and expenses), as may for the time being be directed by Order in Council, and in the absence of any such Order, or so far as any such Order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting Maritime Causes of Appeal.

6. The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such Appeal, and may therein exercise all such powers as for the time being appertain to them in respect of Appeals from any Court of Admiralty jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in Prize causes. Jurisdiction of Judicial Committee in Prize Appeals.

7. All processes and documents required for the purposes of any such Appeal shall be transmitted to and shall remain in the custody of the Registrar of Her Majesty in Prize Appeals. Custody of Processes, Papers, &c.

8. In every such Appeal the usual inhibition shall be extracted from the Registry of Her Majesty in Prize Appeals within three months after the date of the order or decree appealed from if the Appeal be from the High Court of Admiralty, and within six months after that date if it be from a Vice-Admiralty Prize Court. Limit of Time for Appeal.

The Judicial Committee may, nevertheless, on sufficient cause shown, allow the inhibition to be extracted and the appeal to be prosecuted after the expiration of the respective periods aforesaid.

*Vice-Admiralty Prize Courts.*

9. Every Vice-Admiralty Prize Court shall enforce within its jurisdiction all orders and decrees of the Judicial Committee in Enforcement of Orders of High Court, &c.

† Under the Judicature Acts 1873, 1876, Appeals from the High Court of Justice as exercising Admiralty jurisdiction go to the Court of Appeal, and thence to the House of Lords. Appeals from Vice-Admiralty Prize Courts still go to the Judicial Committee of the Privy Council.

### Prize Appeals and of the High Court of Admiralty in Prize Causes.

Salaries of  
Judges of  
Vice-  
Admiralty  
Prize Courts.

10. Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court a Salary not exceeding Five-hundred Pounds a-year, payable out of money provided by Parliament, subject to such regulations as seem meet.

A Judge to whom a Salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of Prize business transacted in his Court.

An account of all such fees shall be kept by the Registrar of the Court, and the amount thereof shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Retiring  
Pensions of  
Judges, as in  
22 & 23 Vict.  
c. 26.

11. In accordance, as far as circumstances admit, with the principles and regulations laid down in the Superannuation Act, 1859, Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court an annual or other Allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament.

Returns  
from Vice-  
Admiralty  
Prize Courts.

12. The Registrar of every Vice-Admiralty Prize Court shall, on the first day of *January* and first day of *July* in every year, make out a Return (in such form as the Lords of the Admiralty from time to time direct) of all Cases adjudged in the Court since the last half-yearly Return, and shall with all convenient speed send the same to the Registrar of the High Court of Admiralty, who shall keep the same in the Registry of that Court, and who shall, as soon as conveniently may be, send a Copy of the Returns of each Half Year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

### General.

General  
Orders for  
Prize Courts.

13. The Judicial Committee of the Privy Council, with the Judge of the High Court of Admiralty, may from time to time frame General Orders for regulating (subject to the provisions of this Act) the procedure and practice of Prize Courts, and the duties and conduct of the Officers thereof and of the Practitioners therein, and for regulating the fees to be taken by the Officers of the Courts, and the costs, charges, and expenses to be allowed to the Practitioners therein.

Any such General Orders shall have full effect, if and when approved by Her Majesty in Council, but not sooner or otherwise.

Every Order in Council made under this Section shall be laid before both Houses of Parliament.

Every such Order in Council shall be kept exhibited in a conspicuous place in each Court to which it relates.

Prohibition  
of Officer of  
Prize Court  
acting as  
Proctor, &c.

14. It shall not be lawful for any Registrar, Marshal, or other Officer of any Prize Court, or for the Registrar of Her Majesty in Prize Appeals, directly or indirectly to act or be in any manner concerned as Advocate, Proctor, Solicitor, or Agent, or otherwise, in any Prize Cause, or Appeal, on pain of dismissal or suspension

from Office, by order of the Court or of the Judicial Committee (as the case may require).

15. It shall not be lawful for any Proctor or Solicitor, or person practising as a Proctor or Solicitor, being employed by a party in a Prize Cause or Appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that Cause or Appeal, on pain of exclusion or suspension from practice in Prize matters, by order of the Court or of the Judicial Committee (as the case may require).

*Prohibition of Proctors being concerned for adverse parties in a cause.*

## II.—PROCEDURE IN PRIZE CAUSES.

### *Proceedings by Captors.*

16. Every Ship taken as Prize, and brought into port within the jurisdiction of a Prize Court, shall forthwith, and without bulk broken, be delivered up to the Marshal of the Court.

*Custody of Prize Ship*

If there is no such Marshal, then the Ship shall be in like manner delivered up to the principal Officer of Customs at the Port.

The Ship shall remain in the custody of the Marshal, or of such Officer, subject to the orders of the Court.

17. The Captors shall, with all practicable speed after the Ship is brought into port, bring the Ship Papers into the Registry of the Court.

*Bringing in of Ship Papers.*

The Officer in Command, or one of the Chief Officers of the capturing Ship, or some other person who was present at the Capture, and saw the Ship Papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the Court for the absence or altered condition of the Ship Papers or any of them.

Where no Ship Papers are delivered up or found on board the captured Ship, the Officer in Command, or one of the Chief Officers of the capturing Ship, or some other person who was present at the Capture, shall make oath to that effect.

18. As soon as the Affidavit as to Ship Papers is filed, a Monition shall issue, returnable within twenty days from the service thereof, citing all persons in general to show cause why the captured Ship should not be condemned.

*Issue of Monition.*

19. The Captors shall, with all practicable speed after the captured Ship is brought into Port, bring three or four of the principal persons belonging to the captured Ship before the Judge of the Court or some person authorised in this behalf, by whom they shall be examined on oath on the standing interrogatories.

*Examination on Standing Interrogatories*

The Preparatory Examinations on the Standing Interrogatories shall, if possible, be concluded within five days from the commencement thereof.

Adjudication  
by Court.

20. After the return of the Monition, the Court shall, on production of the Preparatory Examinations and Ship Papers, proceed with all convenient speed either to condemn or to release the captured Ship.

Further proof.

21. Where, on production of the Preparatory Examinations and Ship Papers, it appears to the Court doubtful whether the captured Ship is good Prize or not, the Court may direct further proof to be adduced, either by Affidavit or by Examination of Witnesses, with or without pleadings, or by production of further documents; and on such further proof being adduced the Court shall with all convenient speed proceed to adjudication.

Custody, &c.  
of Ships of  
War.

22. The foregoing provisions, as far as they relate to the custody of the Ship, and to Examination on the Standing Interrogatories, shall not apply to Ships of War taken as Prize.

### *Claim.*

Entry of  
Claim; Security  
for Costs.

23. At any time before final decree made in the Cause, any person claiming an interest in the Ship may enter in the Registry of the Court a claim, verified on oath.

Within five days after entering the Claim, the claimant shall give security for costs in the sum of sixty pounds; but the Court shall have power to enlarge the time for giving security, or to direct security to be given in a larger sum, if the circumstances appear to require it.

### *Appraisement.*

Power to Court  
to direct  
Appraisement.

24. The Court may, if it thinks fit, at any time direct that the captured Ship be appraised.

Every appraisement shall be made by competent persons sworn to make the same according to the best of their skill and knowledge.

### *Delivery on Bail.*

Power to Court  
to direct  
Delivery to  
Claimant on  
Bail.

25. After appraisement, the Court may, if it thinks fit, direct that the captured Ship be delivered up to the claimant, on his giving security to the satisfaction of the Court to pay to the captors the appraised value thereof in case of condemnation.

### *Sale.*

Power to Court  
to order Sale.

26. The Court may at any time, if it thinks fit, on account of the condition of the captured Ship, or on the application of a claimant, order that the captured Ship be appraised as aforesaid (if not already appraised), and be sold.

Sale on Con-  
demnation.

27. On or after condemnation the Court may, if it thinks fit, order that the Ship be appraised as aforesaid (if not already appraised) and be sold.

28. Every sale shall be made by or under the superintendence of the Marshal of the Court or of the Officer having the custody of the captured Ship. How Sales to be made.

29. The proceeds of any sale, made either before or after condemnation, and after condemnation the appraised value of the captured Ship, in case she has been delivered up to a claimant on bail, shall be paid under an order of the Court either into the Bank of *England* to the credit of Her Majesty's Paymaster General, or into the hands of an official Accountant (belonging to the Commissariat or some other department) appointed for this purpose by the Commissioners of Her Majesty's Treasury or by the Lords of the Admiralty, subject in either case to such regulations as may from time to time be made, by Order in Council, as to the custody and disposal of money so paid. Payment of Proceeds to Paymaster General or Official Accountant.

#### *Small Armed Ships.*

30. The Captors may include in one adjudication any number, not exceeding six, of armed Ships not exceeding one hundred tons each, taken within three months next before institution of proceedings. One Adjudication as to several small Ships.

#### *Goods.*

31. The foregoing provisions relating to Ships shall extend and apply, *mutatis mutandis*, to goods taken as Prize on board Ship; and the Court may direct such Goods to be unladen, inventoried, and warehoused. Application of foregoing Provisions to Prize Goods.

#### *Monition to Captors to proceed.*

32. If the Captors fail to institute or to prosecute with effect proceedings for adjudication, a Monition shall, on the application of a claimant, issue against the Captors, returnable within six days from the service thereof, citing them to appear and proceed to Adjudication; and on the return thereof the Court shall either forthwith proceed to adjudication or direct further proof to be adduced as aforesaid, and then proceed to adjudication. Power to Court to call on Captors to proceed to Adjudication.

#### *Claim on Appeal.*

33. Where any person, not an original party in the cause, intervenes on Appeal, he shall enter a claim, verified on oath, and shall give security for costs. Person intervening on Appeal to enter Claim.

### III.—SPECIAL CASES OF CAPTURE.

#### *Land Expeditions.*

34. Where, in an expedition of any of Her Majesty's naval or naval and military forces against a fortress or possession on land, goods belonging to the state of the Enemy or to a public trading company of the Enemy exercising powers of Government are Jurisdiction of Prize Court in case of Capture in Land Expedition.

taken in the fortress or possession, or a Ship is taken in waters defended by or belonging to the fortress or possession, a Prize Court shall have jurisdiction as to the goods or Ship so taken, and any goods taken on board the Ship, as in case of Prize.

*Conjunct Capture with Ally.*

Jurisdiction of Prize Court in case of Expedition with Ally.

35. Where any Ship or goods is or are taken by any of Her Majesty's naval or naval and military forces while acting in conjunction with any forces of any of Her Majesty's Allies, a Prize Court shall have jurisdiction as to the same as in case of Prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's Ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's Ally.

*Joint Capture.*

Restriction on Petitions by asserted joint Captors.

36. Before condemnation, a Petition on behalf of asserted joint Captors shall not (except by special leave of the Court) be admitted, unless and until they give security to the satisfaction of the Court to contribute to the actual Captors a just proportion of any costs, charges, or expenses or damages that may be incurred by or awarded against the actual Captors on account of the capture and detention of the Prize.

After condemnation, such a Petition shall not (except by special leave of the Court) be admitted unless and until the asserted joint Captors pay to the actual Captors a just proportion of the costs, charges, and expenses incurred by the actual Captors in the case, and give such security as aforesaid, and show sufficient cause to the Court why their Petition was not presented before condemnation.

Provided, that nothing in the present Section shall extend to the asserted interest of a Flag Officer claiming to share by virtue of his flag.

*Offences against Law of Prize.*

In case of Offence by Captors, Prize to be reserved for Crown.

37. A Prize Court, on proof of any offence against the Law of Nations, or against this Act, or any Act relating to Naval discipline, or against any Order in Council or Royal Proclamation, or of any breach of Her Majesty's instructions relating to Prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a Superior Officer, committed by the Captors in relation to any Ship or goods taken as Prize, or in relation to any person on board any such Ship, may on condemnation, reserve the Prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of Captors.

*Pre-emption.*

Purchase by Admiralty for Public Service of Stores on board Foreign Ships.

38. Where a Ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any Enemy of Her Majesty is taken and brought into a port of the



United Kingdom, and the purchase for the service of Her Majesty of the stores on board the Ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a Prize Court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the Ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

*Capture by Ship other than a Ship of War.*

39. Any Ship or goods taken as Prize by any of the Officers and Crew of a Ship other than a Ship of War of Her Majesty shall, on condemnation, belong to Her Majesty in Her Office of Admiralty.

Prizes taken by Ships other than Ships of War to be Droits of Admiralty

IV.—PRIZE SALVAGE.

40. Where any Ship or goods belonging to any of Her Majesty's subjects, after being taken as Prize by the Enemy, is or are retaken from the Enemy by any of Her Majesty's Ships of War, the same shall be restored by decree of a Prize Court to the Owner, on his paying as Prize Salvage one eighth part of the value of the Prize to be decreed and ascertained by the Court, or such sum not exceeding one eighth part of the estimated value of the Prize as may be agreed on between the Owner and the Re-captors, and approved by Order of the Court; Provided, that where the re-capture is made under circumstances of special difficulty or danger, the Prize Court may, if it thinks fit, award to the Re-captors as Prize Salvage a larger part than one eighth part, but not exceeding in any case one fourth part of the value of the Prize.

Salvage to re-captors of British Ship or goods from Enemy.

Provided also, that where a ship after being so taken is set forth or used by any of Her Majesty's Enemies as a Ship of War, this provision for Restitution shall not apply, and the Ship shall be adjudicated on as in other cases of Prize.

41. Where a Ship belonging to any of Her Majesty's subjects, after being taken as Prize by the Enemy, is retaken from the Enemy by any of Her Majesty's Ships of War, she may, with the consent of the Re-captors, prosecute her voyage, and it shall not be necessary for the Re-captors to proceed to adjudication till her return to a port of the United Kingdom.

Permission to re-captured Ship to proceed on Voyage.

The Master or Owner, or his Agent, may, with the consent of the Re-captors, unload and dispose of the Goods on board the Ship before adjudication.

In case the Ship does not, within six months, return to a port of the United Kingdom, the Re-captors may nevertheless institute proceedings against the Ship or Goods in the High Court of Admiralty, and the Court may thereupon award Prize Salvage as aforesaid to the Re-captors, and may enforce payment thereof, either by Warrant of Arrest against the Ship or goods, or by Monition and Attachment against the Owner.

## V.—PRIZE BOUNTY.

Prize Bounty  
to Officers and  
Crew present  
at Engagement  
with an  
Enemy

42. If, in relation to any War, Her Majesty is pleased to declare, by Proclamation or Order in Council, her intention to grant Prize Bounty to the Officers and Crews of Her Ships of War, then such of the Officers and Crew of any of Her Majesty's Ships of War as are actually present at the taking or destroying of any armed Ship of any of Her Majesty's Enemies shall be entitled to have distributed among them as Prize Bounty a sum calculated at the rate of Five Pounds for each person on board the Enemy's Ship at the beginning of the engagement.

Ascertainment  
of Amount of  
Prize Bounty  
by Decree of  
Prize Court.

43. The number of the persons so on board the Enemy's Ship shall be proved in a Prize Court, either by the Examinations on oath of the survivors of them, or of any three or more of the survivors, or if there is no survivor, by the Papers of the Enemy's Ship, or by the examinations on oath of three or more of the Officers and Crew of Her Majesty's Ship, or by such other evidence as may seem to the Court sufficient in the circumstances.

The Court shall make a Decree declaring the title of the Officers and Crew of Her Majesty's Ship to the Prize Bounty, and stating the amount thereof.

The decree shall be subject to Appeal as other decrees of the Court.

Payment of  
Prize Bounty  
awarded.

44. On production of an official copy of the decree the Commissioners of Her Majesty's Treasury shall, out of money provided by Parliament, pay the amount of Prize Bounty decreed, in such manner as any Order in Council may from time to time direct.

## VI.—MISCELLANEOUS PROVISIONS.

*Ransom.*

Power for  
regulating  
ransom by  
Order in  
Council.

45. Her Majesty in Council may from time to time, in relation to any War, make such Orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any Ship or goods belonging to any of Her Majesty's subjects, and taken as Prize by any of Her Majesty's Enemies.

Any contract or agreement entered into, and any bill, bond or other security given for ransom of any Ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a Prize Court (subject to Appeal to the Judicial Committee of the Privy Council), and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration.

If any person ransoms or enters into any contract or agreement for ransoming any Ship or goods, in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in her office of Admiralty, and on conviction to be fined, in the discretion of the Court, any sum not exceeding Five-hundred Pounds.

*Convoy.*

46. If the Master or other person having the command of any Ship of any of Her Majesty's subjects, under the convoy of any of Her Majesty's Ships of War, wilfully disobeys any lawful signal, instruction, or command of the Commander of the Convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in her office of Admiralty, and upon conviction to be fined, in the discretion of the Court, any sum not exceeding Five-hundred Pounds, and to suffer imprisonment for such time, not exceeding One Year, as the Court may adjudge.

Punishment of Masters of Merchant Vessels under Convoy disobeying Orders or deserting Convoy.

*Customs Duties and Regulations.*

47. All Ships and goods taken as Prize and brought into a port of the United Kingdom shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the Customs may be chargeable on other Ships and Goods of the like description; and

Prize Ships and goods liable to Duties and Forfeiture.

All goods brought in as Prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the Laws relating to the Customs, shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorise the sale or delivery thereof for home use or exportation, unconditionally or subject to such conditions and regulations as they may direct.

48. Where any Ship or goods taken as Prize is or are brought into a port of the United Kingdom, the Master or other person in charge or command of the Ship which has been taken or in which the goods are brought shall, on arrival at such port, bring to at the proper place of discharge, and shall, when required by any Officer of Customs, deliver an account in writing under his hand concerning such Ship and Goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such Ship or goods asked by any such Officer, and in default shall forfeit a sum not exceeding One-hundred Pounds, such forfeiture to be enforced as forfeitures for offences against the Laws relating to the Customs are enforced, and every such Ship shall be liable to such searches as other ships are liable to, and the Officers of the Customs may freely go on board such Ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of Ships of War belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.

Regulations of Customs to be observed as to Prize Ships and goods.

Power for  
Treasury to  
remit Customs  
duties in cer-  
tain cases.

49. Goods taken as Prize may be sold either for home consumption or for exportation : and if in the former case the proceeds thereof, after payment of duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commissioners of Her Majesty's Treasury may remit the whole or such part of the said duties as they see fit.

*Perjury.*

Punishment of  
persons guilty  
of perjury.

50. If any person wilfully and corruptly swears, declares, or affirms falsely in any Prize Cause or Appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

*Limitation of Actions, &c.*

Actions against  
persons exe-  
cuting Act not  
to be brought  
without notice,  
&c.

51. Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act for any alleged irregularity or trespass, or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within six months next after the act or thing complained of is done or omitted, or, in case of a continuation of damage, within six months next after the doing of such damage has ceased.

In any such action the defendant may plead generally that the act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may, by leave of the Court in which the action is brought, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer subject to review; and though a verdict is given for the plaintiff in the action he shall not have costs against the defendant, unless the judge before whom the trial is had certifies his approval of the action.

Any such action or proceeding against any person in Her Majesty's Naval Service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

*Petitions of Right.*

52. A Petition of Right, under the Petitions of Right Act, 1860, may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject matter of the petition or any material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognisable in a Prize Court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Jurisdiction of High Court of Admiralty on Petitions of Right in certain cases, as in 23 & 24 Vict. c. 34.

Any Petition of Right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that Court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to Appeal, and to the framing and approval of General Orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of any such Petition of Right intituled or directed to be prosecuted in that Court; and, subject thereto, all the provisions of the Petitions of Right Act, 1860, shall apply, *mutatis mutandis*, in the case of any such Petition of Right; and for the purposes of the present section the terms "Court" and "Judge" in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the Judge thereof, and other terms shall have the respective meanings given to them in that Act.

*Orders in Council.*

53. Her Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act.

Power to make Orders in Council.

54. Every Order in Council under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within thirty days after the next meeting of Parliament.

Order in Council to be gazetted, &c.

*Savings.*

55. Nothing in this Act shall—

- (1.) give to the Officers and Crew of any of Her Majesty's Ships of War any right or claim in or to any Ship or goods taken as Prize or the proceeds thereof, it being the intent of this Act that such Officers and Crews shall continue to take only the interest (if any) in the proceeds of Prizes as may be from time to time granted to them by the Crown; or
- (2.) affect the operation of any existing treaty or convention with any Foreign Power; or
- (3.) take away or abridge the power of the Crown to enter into any treaty or convention with any Foreign Power containing any stipulation that may seem meet concerning any matter to which this Act relates; or

Not to affect rights of Crown; Effect of treaties, &c.

- (4.) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of her Crown, or in right of her office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the Office of Lord High Admiral ; or
- (5.) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a Prize Court to take cognisance of and judicially proceed upon any capture, seizure, prize, or reprisal of any Ship or Goods, and to hear and determine the same, and, according to the course of Admiralty and the Law of Nations, to adjudge and condemn any ship or goods, or any other jurisdiction or authority of or exerciseable by a Prize Court.

*Commencement.*

Commence-  
ment of Act.

56. This Act shall commence on the commencement of The Naval Agency and Distribution Act, 1864.<sup>1</sup>

## VII.

### *Extract from the Naval Discipline Act.*

29 & 30 VIC., cap., 109, 10th AUGUST 1866.  
(As Amended by 47 & 48 VIC. cap. 39.)

WHEREAS it is expedient to amend the law relating to the government of the Navy, whereon, under the good providence of God, the wealth, safety, and strength of the kingdom chiefly depend :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

\* \* \* \* \*

Penalty for not  
sending to the  
Court of Ad-  
miralty all  
Papers found  
aboard Prize  
Ships.

38. All the Papers, Charter-parties, Bills of Lading, Passports, and other Writings whatsoever that shall be taken, seized, or found aboard any Ship or Ships which shall be taken as Prize shall be duly preserved, and the Commanding Officer of the Ship which shall take such Prize shall send the Originals entire and without fraud to the Court of Admiralty, or such other Court or Commissioners as shall be authorised to determine whether such Prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall

<sup>1</sup> i.e., 23rd June, 1864.

be dismissed from Her Majesty's service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

39. No person subject to this Act shall take out of any Prize or Ship seized for Prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of Her Majesty's Ships and Vessels of War, before the same be adjudged lawful Prize in some Admiralty Court ; but the full and entire account of the whole without embezzlement shall be brought in, and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the Capture.

Penalty for taking money or other effects out of any Prize before the same shall be condemned

40. If any Ship or Vessel shall be taken as Prize, none of the Officers, Mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from Her Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for stripping or ill-using persons taken on board a Prize.

41. If the Commanding Officer of any of Her Majesty's Ships does any of the following things—namely,

Penalty on Commanders capturing as Prize by collusion, or collusively restoring Ships or Goods.

- (1.) By collusion with the Enemy takes as Prize any Vessel, goods, or thing ;
- (2.) Unlawfully agrees with any person for the ransoming of any Vessel, goods, or thing taken as Prize ; or
- (3.) In pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any Vessel, goods, or thing taken as Prize ;

he shall be liable to dismissal from Her Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned.

42. If any person subject to this Act breaks bulk on board any Vessel taken as Prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave-trade or to the Customs, with intent to embezzle any thing therein or belonging thereto, he shall be liable to dismissal from Her Majesty's service with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the Capture.

Penalty for breaking bulk on board Prize Ship with a view to embezzlement.

## VIII.

*Royal Proclamation as to Distribution of Prize Money.*

3RD AUGUST, 1886.

By the Queen.

## A PROCLAMATION.

VICTORIA R.

WHEREAS by Our Order in Council of this Day's Date We were graciously pleased to annul, from and after the thirtieth day of September next, Our Royal Proclamation of the Sixteenth Day of May One thousand eight hundred and seventy-one, regulating, according to the scheme set forth therein or recognized thereby, the Distribution of the net Proceeds of Prizes captured from the Enemy, of Captures and Seizures under the several Acts of Parliament passed relating to the Revenues of Customs, and to Trade and Navigation, for the Abolition of the Slave Trade, for the Capture and Destruction of Pirates and Piratical Vessels, and of the Rewards conferred for the same, as also of the Awards for all Salvage granted to the Crews of our Ships and Vessels of War, when not otherwise specially apportioned by the Terms of the respective Awards and Allowances, and in consequence of certain alterations in the Apportionment and Classification of the Shares being desirable, it is expedient that Provision should be made for the future Distribution of such net Proceeds and Salvage not otherwise specially apportioned, and all other Moneys whatsoever granted to be share among the Officers and Crews of our Ships and Vessels in the Manner of Prize Money.

We do, therefore, now make known to all Our loving Subjects, and to all others whom it may concern, by this our Proclamation, by and with the Advice of our Privy Council, that Our Royal Will and Pleasure is, and We do hereby direct, That Ships or Vessels being in sight of a Prize, as also of the Captor, under Circumstances to cause Intimidation to the Prize and Encouragement to the Captor, shall be alone entitled to share as Joint Captors, and that the Distribution of all such net Proceeds of Prizes, Rewards, Allowances, Salvage Awards, and of all Bounties and Grants whatsoever distributable to Our Royal Navy in the manner of Prize Money, shall be made as follows, viz. :—

That the Flag Officer or Officers shall have One Thirtieth Part of the whole net Proceeds arising from Prizes captured from the Enemy, and from all other Captures and Seizures, &c. as aforesaid, made by any of the Ships or Vessels under his or their Command, and of the Rewards conferred for the same, according to the following Conditions and Modifications, save and except as herein-after provided and directed ; that is to say,



When there is but one Flag Officer he shall have the entire One Thirtieth Part; when Two Flag Officers shall be sharing together, the Chief shall have Two Thirds, and the other Flag Officer shall have the remaining One Third of the One Thirtieth Part; and when there shall be more than Two Flag Officers, the Chief shall have One Half of the said One Thirtieth Part, and the remaining Half shall be equally divided among the junior Flag Officers; Commodores of the First Class and Captains of the Fleet to share as Flag Officers: Provided always, that no Flag Officer, unless actually on board any of Our Ships or Vessels of War, and at the actual taking, sinking, burning, or otherwise destroying any Ship or Ships of War, Privateer or Privateers belonging to the Enemy, shall share in the Distribution of any Head Money or Bounty Money granted as a Reward for the taking, sinking, burning, or otherwise destroying any such Ship or Vessel of the Enemy.

That no Flag Officer, unless actually present at the Capture or Destruction of any Pirates or Piratical Ship, Vessel, or Boat shall share in any Distribution of the Proceeds or Bounty in respect of such Pirates, or of the Crews of such Piratical Ship, Vessel, or Boat.

That no Flag Officer shall share in any Remuneration or Reward conferred or awarded to the Crew of any of Our Ships or Vessels as Salvage, unless he shall have been actually on board the Ship or Vessel to which the Award shall be made, or have personally aided and assisted in the Transaction at the Time the Service was rendered.

That no Flag Officer commanding in any Port in the United Kingdom shall share in the Proceeds of any Prize captured from the Enemy, or in other Captures, Seizures, Rewards, or any distributive proceeds as aforesaid, made by any Ships or Vessels which shall sail from or leave such Port by Order of the Lord High Admiral, or of Our Commissioners for executing the Office of Lord High Admiral.

That when Ships or Vessels under the Command of several Flag Officers belonging to separate Stations, shall be joint Captors, &c., each Flag Officer shall receive a proportion of the One Thirtieth Part according to the Number of Officers and Men present under the Command of each such Flag Officer; and when Ships or Vessels under Orders from the Lord High Admiral or from Our Commissioners for executing the Office of Lord High Admiral, are joint Captors, &c., with other Ships or Vessels under a Flag or Flags, the like Regulations as to the Apportionment of the Flag Share to the Flag Officer or Officers are to be observed.

With reference to Flag Officers it is to be noted,—

That when an inferior Flag Officer is sent to reinforce a superior Officer on any Station, the superior Flag Officer shall

not share in any Prize taken by the inferior Flag Officer before he has arrived within the Limits of that Station, unless the inferior Officer shall have received some Order directly from, and shall be acting in execution of some Order issued by such superior Flag Officer.

No chief Flag Officer quitting any Station, except upon some definite urgent Service, and with the Intention of returning to the Station as soon as such Service is performed, shall share in any Prize taken by Our Ships or Vessels left behind after he has passed the Limits of the Station, or after he has surrendered the Command to another Flag Officer appointed by the Admiralty to command in chief upon such Station.

An inferior Flag Officer quitting any Station, (except when detached by Orders from his Commander-in-Chief upon a special Service, accompanied with Orders to return to such Station as soon as the Service has been performed), shall have no Share in Prizes taken by the Ships and Vessels remaining on the Station after he has passed the Limits thereof.

In like Manner Flag Officers remaining on such Station shall not share in the Prizes taken by such inferior Officer, or by Ships or Vessels under his immediate Command, after he has quitted the Limits of the Station, except he has been detached as aforesaid.

A Commander-in-Chief or other Flag Officer belonging to any Station shall not share in any Prize or Prizes taken out of the Limits of that Station by any Ship or Vessel under the Command of a Flag Officer of any other Station, or under Orders from Our Commissioners of the Admiralty, unless such Commander-in-Chief or Flag Officer is expressly authorised by Our said Commissioners to take the Command of that Station in which the Prize or Prizes is or are taken, and shall actually have taken upon him such Command.

Every Commodore having a Captain under him shall be esteemed a Flag Officer with respect to the Thirtieth Part of Prizes taken, whether he be Commanding-in-Chief or serving under Command.

Any Officer on board any of Our Ships of War at the Time of capturing any Prize or Prizes who shall have more Commissions than One shall be entitled only to share in such Prize or Prizes according to the Share allotted to him by the above-mentioned Distribution in respect to his Superior Commission or Office.

And with reference to these Regulations it is to be noted that a Captain, Commander, or other Commanding Officer of a Ship or Vessel shall be deemed to be under the Command of a Flag when he shall actually have received some Order from, or be acting in the Execution of some Order issued by a Flag Officer, whether he be or be not within the Limits of the Station of such Flag Officer; and in the event of his being directed to join a Flag Officer on any Station, he shall be deemed to be under the Command of such Flag Officer from the Time when he arrives within the Limits of the Station, which Circumstance is always to be carefully noted in the Log Book; and it shall be considered that he continues under the Flag Officer of such

Station until he shall have received some Order directly from or be acting in the Execution of some Order issued by some other Flag Officer duly authorised, or by the Lord High Admiral, or Our Commissioners for executing the Office of Lord High Admiral.

Every Commodore of the Second Class shall share as Captain.

And We hereby direct, That the Captain, Commander, Lieutenant commanding, Staff Commander commanding, Navigating Lieutenant commanding, or any other Officer duly commanding any Ship or Vessel of War, singly making a Capture or Seizure, or otherwise entitled to the distributive Benefit arising from any Proceeds, Reward, Grant, Bounty, Salvage, or other Award as aforesaid, that is to say, the Officer actually in command at the Time, shall have One Tenth of the Remainder, or if there is no Flag Officer to share, One Tenth of the entire net Proceeds, except that if the single capturing Ship be a rated Ship having a Commander under the Captain the Commander shall take a Portion of the One Tenth Part according to the Proportion herein-after set forth; and if more than one Commanding Officer of the same rank of Command shall be entitled to share as joint Captors, &c. the One Tenth shall be equally divided between them; but when Captains, Commanders, Lieutenants, Staff Commanders, and Navigating Lieutenants commanding, respectively, Our Ships and Vessels of War, and Commanders under Captains in rated Ships, shall share together in whatever Variety of Combination, the One Tenth shall be so divided into Parts for a graduated Apportionment as to provide for each Captain receiving Six Parts; each Commander commanding, or Commander under the Captain in a rated Ship, Three Parts; and each Lieutenant commanding, Staff Commander commanding, or Navigating Lieutenant commanding, or other Officer actually commanding a Vessel of War, Two Parts; which We hereby direct shall be the Proportion in which they shall respectively share; Colonel of Marines (Artillery or Light Infantry, or of Land Forces serving as Marines, doing duty with a Battalion or Force employed on shore for Naval operations to share as Captains; Lieutenant-Colonel of Marines (Artillery or Light Infantry) or of Land Forces serving as Marines employed on shore for Naval operations, if in actual command of a Battalion or Force, to share as Captains, if second in command to share as Commanders; Major of Marines (Artillery or Light Infantry) or of Land Forces serving as Marines employed on shore for Naval operations, if in actual command of a Battalion or Force, to share as Commanders. And We further direct, That after Provision shall thus have been made for the Flag Share (if any), and for the Portion of the Commanding Officer or Officers and others as above specified, the Remainder of the net Proceeds shall be distributed in Eleven Classes, so that each Officer, Man, and Boy composing the rest of the Complements of Our Ships and Vessels of War, and actually on board or absent on duty in a Prize (who it is Our Will and Pleasure shall be the only Absentees entitled to share) at the Time of any such Capture,

Seizure, &c. as aforesaid, and every Person present and assisting shall receive Shares or a Share according to his Class, as set forth in the following Scale :—

**First Class :** Staff Captain, Deputy Inspector General of Hospitals and Fleets when borne on Ship's Books, Secretary to Admiral of the Fleet or to Commander-in-Chief, Paymaster-in-Chief in the event of such an Officer being employed afloat, Chief Inspector of Machinery and Inspector of Machinery when borne on Ship's Books, other than Harbour Ship, *Forty-five Shares each.*

**Second Class :** Senior Lieutenant of a Rated Ship not bearing a Commander under the Captain, Staff Commander, Major of Marines (Artillery or Light Infantry) or of Land Forces, doing duty as, Marines if the Senior Military Officer of a Fleet or Squadron, Chaplain over Fifteen Years' Seniority, Fleet Surgeon, Secretary to an Admiral or Commodore of the First Class not Commanding in Chief or to a Captain of the Fleet, Fleet Paymaster, Fleet Engineer, Naval Instructor over Fifteen Years' Seniority, *Forty Shares each.*

**Third Class :** Lieutenant over Eight Years' Seniority, Navigating Lieutenant over Eight Years' Seniority, Major of Marines (Artillery or Light Infantry), or of Land Forces doing Duty as Marines, whether having higher Brevet Rank or not, Chaplain over Eight and under Fifteen Years' Seniority, Staff Surgeon, Staff Paymaster, Paymaster, Staff Engineer, Chief Engineer, Naval Instructor over Eight and under Fifteen Years' Seniority, *Thirty-five Shares each.*

**Fourth Class :** Lieutenant under Eight Years' Seniority, Navigating Lieutenant under Eight Years' Seniority, Captain of Marines (Artillery or Light Infantry), or of Land Forces doing Duty as Marines, whether having higher Brevet Rank or not, Quartermaster of Marines (of Ten Years' Service as such), Chaplain under Eight Years' Seniority, Surgeon, Secretary to Commodore Second Class, Assistant Paymaster over Twelve Years' Seniority, Assistant Paymaster over Six Years' Seniority, Engineer over Six Years' Seniority, Engineer under Six Years' Seniority, Naval Instructor under Eight Years' Seniority, *also* Lieutenant of the Royal Naval Reserve (when embarked for Service afloat), Chief Officer of a Cruiser in the Coast Guard, Chief Officer of a Coast Guard Station, who has been in command of a Cruiser (when embarked for Service afloat), Engineer of the Royal Naval Reserve (when embarked for Service afloat), Assistant Engineer First Class of the Royal Naval Reserve (when embarked for Service afloat, *Thirty Shares each.*

**Fifth Class :** Sub-Lieutenant, Lieutenant of Marines, Quartermaster of Marines (under Ten Years' Service as such), (Artillery or Light Infantry), or of Land Forces doing Duty as Marines, Assistant Paymaster under Six Years' Seniority, Assistant Engineer, Chief Gunner, Chief Boatswain, Chief

Carpenter, Gunner, Boatswain, Carpenter, *also* Sub-Lieutenant of the Royal Naval Reserve (when embarked for Service), Second Class Assistant Engineer of the Royal Naval Reserve (when embarked for Service), Senior Mate of a Cruiser in the Coast Guard. Chief Officer of a Coast Guard Station who has never commanded a Cruiser (when embarked for Service), *Twenty Shares each.*

**Sixth Class :** Midshipman, Clerk, Pilot, Chief Gunner's Mate, Chief Boatswain's Mate, Chief Captain of the Forecastle, Admiral's Coxswain, Chief Quartermaster, Chief Yeoman of Signals, Warrant Officer of Marines (if embarked), (Artillery or Light Infantry), or of Land forces doing Duty as Marines, Staff Sergeants and Colour Sergeants of Marines (Artillery or Light Infantry) or of Land Forces doing Duty as Marines, Head Schoolmaster, Master at Arms, Naval Schoolmaster, Writer First, Second, and Third Classes (Old System), Writer First Class (New System), Chief Engine Room Artificer (Old System), Chief Engine Room Artificer First and Second Classes (New System), Chief Torpedo Artificer, Chief Carpenter's Mate (Skilled) Chief Carpenter's Mate, Engine Room Artificer (Old System) Engine Room Artificer First Second, Third, and Fourth Classes (New System), Ship's Steward, Ship's Steward for General Mess, Ship's Cook (Old System), Ship's Cook First Class (New System), Ship's Cook for General Mess, Chief Bandmaster, Chief Sick Berth Steward, Chief Stoker, and all other Chief Petty Officers, *also* Midshipman of Royal Naval Reserve (when embarked for Service), Second Mate of a Cruiser in the Coast Guard Service, Chief Boatman of the Coast Guard in charge (when embarked for Service), *Twelve Shares each.*

**Seventh Class :** Naval Cadet, Assistant Clerk, Gunner's Mate Boatswain's Mate, Captain of the Forecastle, Captain's Coxswain, Quartermaster, Yeoman of Signals, Coxswain First Class, Captain of the Maintop, Captain of the Foretop, Captain of the Quarter-deck Men, Captain of the Hold, Sailmaker, Ropemaker, Sergeant of Marines (Artillery or Light Infantry) or of Land Forces doing duty as Marines, Ship's Corporal First Class, Ship's Corporal Second Class, Carpenter's Mate Skilled, Carpenter's Mate, Caulker, Blacksmith, Torpedo Artificer, Armourer, Plumber, Painter First Class, Leading Stoker, Sick Berth Steward First Class, Sick Berth Steward (under former Regulations), Ship's Cook Second Class (New System), Bandmaster, Head Krooman in Rated Ships, Tindal or Head Man of Seedies in Rated Ships, and all other First Class Petty Officers, *also* Chief Boatman of the Coast Guard (when embarked for Service), *Ten Shares each.*

**Eighth Class :** Coxswain Second Class, Captain of the Mast, Second Captain of the Forecastle, Second Captain of the Maintop, Second Captain of the Foretop, Signalmen, Second Captain of the Quarter-deck Men, Captain of the Mizentop, Sailmaker's Mate, Leading Seaman, Corporal of Marines

(Artillery or Light Infantry), or of Land Forces doing Duty as Marines, Bombardier of Marine Artillery, Cooper, Caulker's Mate, Armourer's Mate, Painter Second Class, Plumber's Mate, Shipwright Skilled, Sick Berth Steward Second Class, Sick Berth Attendant (under former Regulations), Musician, Writer Second Class (New System), Head Krooman, (in other than Rated Ships), Tindal or Head Man of Seedies (in other than Rated Ships), and all other Second Class Petty Officers, *also* Commissioned Boatman and Divisional Carpenter of the Coast Guard (when embarked for Service), *Seven Shares each.*

Ninth Class : Yeoman of Store Room, Second Captain of the Hold, Sailmaker's Crew, Able Seaman, Signalman Second Class, Ordinary Seaman, Signalman, Third Class, Gunner of Marine Artillery, Private of Marines, Drummer and Bugler, of Marines (Artillery or Light Infantry) or of Land Forces doing Duty as Marines, Shipwright, Stoker First Class, Blacksmith's Crew, \*Tinsmith, \*Armourer's Crew, \*Carpenter's Crew, Plumber's Crew, Cooper's Crew, Writer Third Class (New System), Lithographer, Stoker Second Class, Carpenter's Crew Second Class, Admiral's Steward, Admiral's Cook, Admiral's Domestic, Captain's Steward in all Rated Ships, Captain's Cook in all Rated Ships, General Mess Steward, Captain's and Cabin Steward in Dispatch Vessels, Captain's and Cabin Cook in Dispatch Vessels, Ward Room Steward in Ships of First and Second Class, Ward Room Cook in Ships of First and Second Class, Bandsman, Ship's Steward's Assistant, Sick Berth Attendant (under New Regulations) after Three Year's Service, if qualified for Promotion, Tailor, Shoemaker, Butcher, Lamp Trimmer, Second Head Krooman, Second Head Tindal or Second Head Man of Seedies, *also* Boatman of the Coast Guard (when embarked for Service), and Dock and Victualling Yard Apprentices (if embarked for Service), *Four Shares each.*

Tenth Class : Ordinary Seaman Second Class, Baker, Captain's Steward, Captain's Cook in Ships below Fourth Class, Ward Room Steward, Ward Room Cook in Ships below Second Class, Gun Room Steward, Gun Room Cook, Captain's Servant, Commander's Servant, Secretary's Servant, Engineer's Servant, Engineer's Cook, Warrant Officer's Cook Bandsman Second Class, Sick Berth Attendant (under new Regulations, under Three Years' Service, or if not qualified for Promotion), Assistant Sick Berth Attendant, (under former Regulations), Assistant Baker, Captain's Cook's Assistant, Ward Room Servant, Ward Room Cook's Assistant, Ward Room Officer's Servant, Gun Room Servant, Warrant Officer's Servant, Cook's Mate, Cook's Mate (New System), Cook's Mate Second Class (New System), Barber, Assistant Butcher, Krooman, Seedie, Supernumeraries, ex-

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\* Ordered to be inserted under the authority vested in the Lords Commissioners of the Admiralty by the last paragraph of this Proclamation. (Minute of 9th December, 1887).

cept as herein-after provided, and Persons borne merely as Passengers, and not declining to render Assistance on any occasion of Capture, Seizure, &c., *Two Shares each.*

Eleventh Class: Signal Boy, Boy First Class, Boy Second Class, Ship's Steward's Boy, Band Boy, Boy Writer, *One Share each.*

And with respect to Supernumeraries, We do hereby direct:—

1st. That all Supernumeraries holding Ranks in the Service above the Ranks or Ratings specified in the Sixth Class of this Our Proclamation who have been ordered to do Duty in any of Our Ships and Vessels by the Lord High Admiral, by Our Commissioners for executing the Office of Lord High Admiral, by the Senior Officer of the Fleet or Squadron, or if none senior, then by the Captain or Commanding Officer of the Capturing Ship or Vessel, if not by special Authority employed in higher Capacities, shall share according to the Ranks which they respectively hold in the Service; but in all Cases, to qualify them for so sharing, and not merely as Supernumeraries in the Tenth Class, due Notation of their being thus respectively ordered to do Duty must be made on the Victualling Lists and Prize Lists.

2nd. That all Supernumeraries holding Ratings in the Service below the Denominations of those specified in the Fifth Class of this Our Proclamation, and who at full Victuals are engaged in the ordinary Duties of the Ship, shall always share according to the Ratings which they bear in the Service.

3rd. That no Interpreter, unless holding some Rank or Rating in the Service, shall share in any Proceeds, Bounties, or Awards as aforesaid, except by the special permission of the Lord High Admiral, or Our Commissioners for executing the Office of Lord High Admiral for the Time being.

And in order that Our Royal Intentions herein may be duly carried into effect, We further direct that when any Capture or Seizure is made, or Service performed for which a distributable Grant or Reward is to be made, or is expected to be conferred or awarded to any of Our Ships or Vessels of War, the Captain or Commanding Officer shall transmit or cause to be transmitted, as soon as may be, to the Secretary of the Admiralty, a true and perfect List of all the Officers, Seamen, Marines, Soldiers, and others who were actually on board on the Occasion, with a Notation thereon, stating whether any other of Our Ships or Vessels was in sight at the Time of the Capture, accompanied by a separate List containing the Names of those belonging to the Crew who were absent on Duty or otherwise at the time, specifying the Cause of such Absence, each List to contain the Quality of the Service of each Person, with their several Ratings, to be subscribed by the Captain or Commanding Officer, and Three or more of the Chief Officers on board.

And when the List of those actually on board, with the separate List of Persons absent, though belonging to the Ship or Vessel, shall have been verified on Examination with the Ship's Books lodged as Official Records, the Accountant-General of Our Navy and Comptroller of Navy Pay, shall grant a Certificate that such

Lists are correct or have been corrected, as Occasion may require, in order that Distribution of the respective Prize or other Proceeds payable as Prize or Salvage Money may be duly made in the Department of the Accountant General of Our Navy and Comptroller of Navy Pay.

And in the Distribution of such Prize, or other Proceeds payable as Prize and Salvage Money, We hereby direct that all Officers, Seamen, Marines, Soldiers and others, holding Acting Appointments superior to their Substantive Ranks or Ratings, and who are in receipt of the Pay of such Acting Appointment, shall share in the Classes to which the Ranks and Ratings in which they are acting, may belong : and further, that all Persons temporarily employed in Our Navy, shall share in the Classes to which the Ranks and Ratings to which they are temporarily appointed may belong.

And in the event of Difficulty arising with respect to any of the Regulations hereby ordered, or if any Case should occur not herein provided for, or not sufficiently provided for, We are pleased hereby to authorise the Lord High Admiral, or Our Commissioners for executing the Office of Lord High Admiral for the Time being, to issue such Directions thereupon as may appear just and expedient ; which Direction shall have the same Force and Effect as if specially provided for in this Our Royal Proclamation : Provided always, and the Distribution hereinbefore ordered shall take effect only with respect to the Proceeds of Captures, Seizures, and Services as aforesaid, which shall be made and performed on and after the first day of October One thousand eight hundred and eighty-six ; and that the Proceeds arising from all Captures, Seizures, and Services as aforesaid, made or performed prior to that Date, shall be distributed in accordance with any Proclamation or Proclamations now in force, or in force at the Time of such Captures, Seizures, or Services respectively and applicable thereto, which We are pleased hereby to direct accordingly.

Given at Our Court at Osborne House, Isle of Wight, this third day of August, in the Year of Our Lord One thousand eight hundred and eighty-six, and in the fiftieth Year of Our Reign.

God save the Queen.

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## IX.

*A List of all existing Vice-Admiralty Courts.*<sup>1</sup>

Aden (with limited jurisdiction).

**Bahamas.**

**Barbadoes.**

**Bermuda.**

Bombay.

British Columbia.

British Guiana.

British Honduras.

Calcutta.

Cape of Good Hope.

## Ceylon.

**Falkland Islands.**

Fiji.

Gambia River.

**Gibraltar.**

**Gold Coast.**

**Grenada.**

Hong Kong.

Jamaica.

Labuan.

Lagos.

Leeward Islands.

Lower Canada (Quebec).

**Madras.**

## Malta.

**Mauritius.**

Natal.

**New Brunswick.**

Newfoundland.

**New South Wales.**

**New Zealand.**

Nova Scotia (Halifax).

Prince Edward Island.

Queensland.

St. Helena.

St. Lucia.

St. Vincent.

Sierra Leone

**South Australia.**

Straits Settlements { Prince of Wales Island,  
Singapore, and  
Malacca.

**Tasmania** (formerly Van Diemen's Land).

<sup>1</sup> Corrected to 31st December, 1887, by the Admiralty Registrar.

*Vice Admiralty Courts—cont.*

Tobago.  
 Trinidad.  
 Vancouver's Island.  
 Victoria.  
 Western Australia.

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The foregoing List contains *seven* Courts not included in the Schedules annexed to the Vice-Admiralty Courts Act of 1863, viz.:—

Aden,  
 Bombay,  
 Calcutta,  
 Fiji,  
 Leeward Islands,  
 Madras, and  
 Straits Settlements.

*Four* of these—

Aden,  
 Bombay,  
 Calcutta, and  
 Madras

were not included in the Schedule, because the Act did not extend to “Her Majesty’s possessions in India.”

The *three* other Courts—

Fiji,  
 Leeward Islands, and  
 Straits Settlements

have been established since the Act of 1863 was passed,

On the other hand, *six* Courts which were included in the Schedule, viz.:—

Antigua,  
 Dominica,  
 Montserrat,  
 Nevis,  
 St. Christopher, and  
 Virgin Islands (Tortola)

have been omitted from the present List, as having been superseded and practically abolished by the establishment in December, 1877, of one Vice Admiralty Court for the Leeward Islands “in lieu of” the several V. A. Courts then existing in those Islands.

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## X.

*List of the principal Reports of Prize Cases, shewing the periods covered.*

Reporter or Editor,	Description of the Work.	Date of Publication.	Period Covered.
Marsden, R.G.	Reports of cases determined by the High Court of Admiralty, and upon appeal therefrom, <i>temp.</i> Sir Thos. Salusbury and Sir George Hay (1758-1774), together with extracts from the books and records of the High Court of Admiralty, and the Court of the Judges Delegates (1584 - 1839) and a collection of cases and opinions (1701-1781).	1885	1584-1839.
Pratt, F.T.	The Law of Contraband of War, with a selection from the papers of the Rt. Hon. Sir George Lee.	1856	1740-50.
Anon.	Decisions in the High Court of Admiralty during the time of Sir George Hay and Sir James Marriott.	1801	1776-79.
Robinson, Chr.	Reports of cases determined in the High Court of Admiralty, commencing with the judgments of the Rt. Hon. Sir William Scott. (6 vols.)	1799-1808	1798-1808.
Edwards, Thos.	Reports of cases in the High Court of Admiralty, commencing with the judgments of Sir W. Scott, E.T. 1808.	1812	1808-12.
Acton, T. H.	Reports of cases before the Lords Commissioners of Appeals in Prize cases, also on Appeal to the King in Council. (2 vols.)	1809-1812	1809-11.
Dodson, John	Reports of cases in the High Court of Admiralty, commencing with the judgments of Sir W. Scott, T.T. 1811. (2 vols.)	1815-28	1811-22.
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Ditto.	Reports of cases decided, during the present war, in the Admiralty Prize Court and the Court of Appeal.	1855-56	1854-56.

*See also Pritchard's Admiralty Digest, First Edit., 1847.*

Prize Cases are to be found in most of the Reports of the Supreme Court of the United States—viz., in :

Reporter.					Period Covered.
Dallas	...	...	...	...	1790-1800.
Cranch	...	...	...	...	1801-1815.
Wheaton	...	...	...	...	1816-1827.
Peters	...	...	...	...	1828-1842.
Howard	...	...	...	...	1843-1860.
Black	...	...	...	...	1861-1862.
Wallace	...	...	...	...	1863-1874.
Otto	...	...	...	...	1875, &c.

See also the Reports of Prize cases decided, or reported, in the District Courts of the United States, by :

Peters (Pennsylvania)	...	...	...	1792-1802.
Bee (South Carolina)	...	...	...	1810.
Van Ness (New York)	...	...	...	1814.
Blatchford (New York)	...	...	...	1831-1865, and
Sprague (Massachusetts)	...	...	...	1841-1864.

And the Circuit Court Reports of—

Gallison	...	...	...	...	1812-1815.
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The cases in the Supreme Court, from 1790 to 1854, are classified in Curtis' Digest, 1856.

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The decisions of the French Prize Courts, during the war of 1870-71, are collected in Barboux, *Jurisprudence du Conseil des Prises pendant la guerre de 1870-1*, Paris, 1872.

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